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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 6209 of October 19, 1990

National Radon Action Week, 1990

By the President of the United States of America

A Proclamation

Radon is a naturally occurring element that is present in most soils and rocks. When enough radon gas enters a home or other building through cracks and openings commonly found in the foundations of such structures, it may become a health hazard.

High levels of radon in the home are believed to increase residents' risk of developing certain health problems, such as lung cancer. Smokers, former smokers, and children may be especially sensitive to radon exposure.

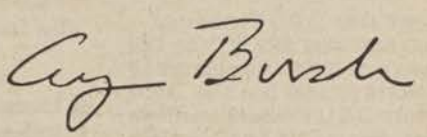
It is estimated that some level of radon gas can be found in one out of ten homes across the country. Fortunately, however, it is relatively easy to protect families from potentially harmful radon exposure. Radon home test kits are widely available, and factors that allow homes to develop high radon levels can be corrected at moderate costs.

The Environmental Protection Agency and a number of State governments—as well as the American Lung Association, the Advertising Council, and the American Medical Association—have initiated programs to educate the public about radon. Many other concerned agencies and organizations are supporting local efforts to test homes and schools. I join with them in urging Americans to test their homes for radon and to make any necessary modifications to reduce excessive levels of the gas. Radon is a health concern that we can readily address.

The Congress, by Senate Joint Resolution 317, has designated the week of October 14 through October 20, 1990, as "National Radon Action Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 14 through October 20, 1990, as National Radon Action Week. I encourage the people of the United States, as well as government officials, to observe this week with appropriate programs and activities designed to enhance public awareness of the risks of excessive radon exposure and ways we can reduce them.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



[FR Doc. 90-25187
Filed 10-19-90; 4:09 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Tuesday, October 23, 1990

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 315 and 316

Noncompetitive Appointment of Certain Former Overseas Employees

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments requested.

SUMMARY: In order to enhance the well-being of families of U.S. Government military and civilian employees assigned abroad, the U.S. Office of Personnel Management proposes to issue regulations to reduce the length of Federal service (to 12 months) that working family members of U.S. civilian and military personnel assigned overseas must complete in order to qualify for subsequent appointment to career positions when they return to the United States. The regulations also permit eligible individuals to qualify for Stateside appointments until January 1, 1994, or within 3 years of returning to the United States.

DATES: Effective Date: October 23, 1990. Comments must be received on or before December 24, 1990.

ADDRESSES: Send or deliver written comments to Chief, Staffing Policy Division; room 6504; Career Entry and Employee Development Group; Office of Personnel Management; 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Ellen Russell, (202) 606–0960.

SUPPLEMENTARY INFORMATION: A special U.S. Government interest in promoting employment opportunities for family members of United States civilian and military employees assigned overseas was first established by Executive Order 12362 of May 12, 1982. This order allowed family members of U.S. Government military and civilian personnel assigned overseas to qualify for noncompetitive appointment to career civil service positions upon return to the United States, provided they had worked for at least 24 months in overseas local hire positions and met certain other requirements. The service requirement was reduced to 18 months by Executive Order 12585 of March 3, 1987. Executive Order 12721, of July 30, 1990, provides that the Office of Personnel Management may establish requirements under which family members may qualify for this benefit, including determination of the specific amount of overseas employment service family members must complete.

The access to career positions in the United States provided by these authorities has enhanced the well-being of families of U.S. Government military and civilian employees who are assigned to overseas positions. An estimated 20,000 family members have earned career civil service employment through this program in the eight years it has been authorized.

In the last few years, however, developments in overseas areas where U.S. military and civilian employees are assigned have made it increasingly difficult for the family members who accompany them to qualify for the employment benefit provided by this program. Increasingly, in many overseas areas there are simply not enough employment opportunities for all the family members who seek them, and family members are not able to occupy positions long enough to qualify. In a number of countries, political unrest, threats to the U.S. community, and other factors have required that family members be relocated from diplomatic and military posts to the United States or other countries overseas. When this has occurred, family members who had begun working in overseas jobs lost the opportunity to continue their employment and qualify for career appointment in the United States. Agencies which found their employees in this situation have asked the Office of Personnel Management to waive the amount of service required to deal with each of these situations.

Rather than provide individual waivers, OPM is reducing the amount of service required on an across-the-board basis. This will increase the likelihood that family members can benefit from the program and at the same time meet future contingencies without further adjustment. The regulations also permit any family members who have worked at least 12 months at overseas locations in the past, and met other program requirements, to qualify for noncompetitive appointment as long as they are hired before January 1, 1994. This retroactive feature is designed primarily to benefit family members who in recent years have been relocated to the United States before they completed the service required for noncompetitive appointment eligibility.

Waiver of Notice of Proposed Rulemaking

To allow candidates for employment to obtain the benefits of the Executive order in the quickest manner possible, I find that good cause exists to waive the general notice of proposed rulemaking and to make this amendment effective in less than 30 days.

E.O. 12291 Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it only affects Federal employees.

List of Subjects in 5 CFR Parts 315 and 316

Government employees.

U.S. Office of Personnel Management.
Constance Berry Newman,
Director.

Accordingly, OPM is amending parts 315 and 316 of title 5, Code of Federal Regulations, as follows:

PART 315—CAREER AND CAREER-CONDITIONAL EMPLOYMENT

1. The authority citation for part 315 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3301, and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; §§ 315.601 and 315.609 also issued under 22 U.S.C. 3651 and 3652; §§ 315.602 and 315.604 also issued under 5 U.S.C. 1104, Pub. L. 95–454, sec. 3(5); § 315.603 also issued under 5 U.S.C. 8151, Pub. L. 93–416; § 315.605 also issued under E.O. 12034, 43 FR 1917, Jan. 13, 1978; § 315.606 also issued under E.O. 11219, 3

CFR 1964–1965 Comp., p. 303; § 315.607 also issued under 22 U.S.C. 2506, 93 Stat. 371, E.O. 12137, 22 U.S.C. 2506, 94 Stat. 2158; § 315.608 also issued under E.O. 12721; § 315.610 also issued under 5 U.S.C. 3304(d), Pub. L. 99–586; § 315.710 also issued under E.O. 12596, 52 FR 17537; Subpart I also issued under 5 U.S.C. 3321, E.O. 12107.

2. In § 315.608, paragraph (a) introductory text and paragraphs (a)(1), (a)(3), and (a)(6) are revised to read as follows:

§ 315.608 Noncompetitive appointment of certain former overseas employees.

(a) Under the authority of Executive Order 12721, an agency in the executive branch may appoint, noncompetitively to a competitive service position within the United States, an individual who is a citizen of or owes permanent allegiance to the United States and who—

(1) Has accumulated 12 months of creditable overseas service in an appropriated fund position(s) under a local hire appointment(s) within any 10-year period beginning after January 1, 1980;

* * * * *

(3) Was a family member of a civilian employee, a nonappropriated fund employee, or a member of a uniformed service (the sponsor) who was officially assigned to the overseas area and was in this status during the period of creditable overseas service required in paragraph (a)(1) of this section;

* * * * *

(6) Is appointed before January 1, 1994, or within 3 years after returning to the United States from the overseas tour of duty (during which he or she acquired eligibility by meeting the requirements of paragraphs (a)(1) through (4) of this section), or as otherwise authorized under the provisions of paragraph (f) of this section.

* * * * *

PART 316—TEMPORARY AND TERM EMPLOYMENT

4. The authority citation for part 316 is revised to read as follows:

Authority: 5 U.S.C. 3301 and 3302, and E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); § 316.302 also issued under 5 U.S.C 3304(c), 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585; § 316.402 also issued under 5 U.S.C. 3304(c) and 3312, 22 U.S.C. 2506 (93 Stat. 371), E.O. 12137, 38 U.S.C. 2014, and E.O. 12362, as revised by E.O. 12585, and E.O. 12721.

[FR Doc. 90–25040 Filed 10–22–90; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 90–209]

RIN 0579–AA29

Citrus Canker

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: We are correcting an error that appeared in a final rule published September 11, 1990 [55 FR 37442–37453, Docket No. 90–114] and effective on September 18, 1990. The final rule removed all of the State of Florida from quarantine because of citrus canker except for a portion of Manatee County. The description of the quarantined area in § 301.75–4(a) contains a typographical error. On page 37451, first column, line 2, change "Township 23" to read "Township 33".

FOR FURTHER INFORMATION CONTACT: Eddie W. Elder, Chief Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 661, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 436–6365.

Done in Washington, DC, this 17 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24912 Filed 10–22–90; 8:45 am]

BILLING CODE 3410–34–M

7 CFR Part 301

[Docket No. 90–207]

Mexican Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mexican fruit fly regulations by removing a portion of San Diego County, near El Cajon, California, from the list of areas regulated because of the Mexican fruit fly. We have determined that the Mexican fruit fly has been eradicated from this area, and that restrictions are no longer needed to prevent the spread of the Mexican fruit fly into noninfested areas of the United States. The action relieves unnecessary restrictions on the interstate movement of regulated articles from the previously regulated area.

DATES: Interim rule effective October 18, 1990. Consideration will be given only to comments received on or before December 24, 1990.

ADDRESSES: To help ensure that your comments are considered, send an original and three copies of written comments to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 90–207. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Senior Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, USDA, room 642, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8247.

SUPPLEMENTARY INFORMATION:

Background

The Mexican fruit fly, *Anastrepha ludens* (Loew), is an extremely destructive pest of certain fruits and vegetables. The Mexican fruit fly can cause serious economic losses. The short life cycle of this pest allows the rapid development of serious outbreaks.

The Mexican fruit fly regulations contained in 7 CFR 301.64 *et seq.* (referred to below as the regulations) impose restrictions on the interstate movement of regulated articles from regulated areas in quarantined States in order to prevent the artificial spread of the Mexican fruit fly to noninfested areas. Regulated articles include citrus fruit, avocados, apples, peaches, pears, lemons, limes, plums, prunes, and pomegranates.

Until recently, Texas was the only State quarantined because of the Mexican fruit fly. Then, in a document effective June 26, 1990, and published in the **Federal Register** on July 2, 1990 (55 FR 27180–27182, Docket Number 90–085), we added California to the list of States quarantined because of the Mexican fruit fly and designated as regulated areas in California a portion of Los Angeles County, near Compton, and a portion of San Diego County, near El Cajon.

Based on insect trapping surveys by inspectors of California State and county agencies and by inspectors of Plant Protection and Quarantine, a unit within the Animal and Plant Health Inspection Service, United States

Department of Agriculture, we have determined that the Mexican fruit fly has been eradicated from a portion of San Diego County, near El Cajon. The last finding of Mexican fruit fly in this area was made on May 5, 1990.

Since then, no evidence of Mexican fruit fly infestations has been found in this area. We have determined that Mexican fruit fly no longer exists in this area, and we are therefore removing it from the list of areas in § 301.64–3(c) regulated because of the Mexican fruit fly.

In California, a portion of Los Angeles County, near Compton, remains infested with the Mexican fruit fly.

Emergency Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that there is good cause for publishing this rule without prior opportunity for public comment. The area in California affected by this document was regulated due to the possibility that the Mexican fruit fly could be spread to noninfested areas of the United States. Since this situation no longer exists, and the continued regulated status of this area would impose unnecessary restrictions on the public, we are taking immediate action to remove the restrictions.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these conditions, there is good cause under 5 U.S.C. 553 to make this rule effective upon signature. We will consider comments received within 60 days of publication of this interim rule in **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**, including a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Basied on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This regulation affects the interstate movement of regulated articles from a portion of San Diego County in California. Within this area there are approximately 121 entities that could be affected, including 70 fruit/produce markets, 30 nurseries, 5 wholesale distributors, and 16 commercial growers of mainly avocados and citrus on approximately 350 acres. These entities comprise less than 1 percent of the total number of similar enterprises operating in the State of California.

The effect of this rule on these entities sould be insignificant since most of these small entities handle regulated articles primarily for local intrastate movement, not interstate movement, and the distribution of these articles was not affected by the regulatory provisions we are removing.

Many of these entities also handle other items in addition to the previously regulated articles so that the effect, if any, of this regulation on these entities is minimal. Further, the conditions in the Mexican fruit fly regulations and treatments in the Plant Protection and Quarantine Treatment Manual, incorporated by reference in the regulations, allowed interstate movement of most articles without significant added costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rule containes no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR 3015, subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Incorporation by reference, Mexican fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: U.S.C. 150bb, 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.64–3 [Amended]

2. In § 301.64–3, paragraph (c) is amended by removing the second paragraph under "California" that begins, "*San Diego County*. That portion of the county, in the El Cajon area * * *".

Done in Washington, DC, this 18 day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24988 Filed 10–22–90; 8:45 am]

BILLING CODE 3410–34–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM89–15–000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

October 15, 1990.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of benchmark rate of return on common equity for public utilities.

SUMMARY: In accordance with § 37.5 of its regulations, the Federal Energy Regulatory Commission, by its designee, the Director of the Office of Economic Policy, issues the update to the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1990 through January 31, 1991. This benchmark rate is set at 12.29 percent.

EFFECTIVE DATE: November 1, 1990.

FOR FURTHER INFORMATION CONTACT: Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1283.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the

Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 3308 at the Commission's Headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no change to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPs, set your communications software to use 300, 1200, or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

Notice of Benchmark Rate of Return on Common Equity for Public Utilities

Issued October 15, 1990.

On December 26, 1989, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 517) concerning the generic determination of the rate of return on common equity for public utilities.[1] In several earlier rulemaking proceedings, the Commission established a discounted clash flow (DCF) formula to determine the average cost of common equity and a quarterly indexing procedure to calculate benchmark rates of return on common equity for public utilities and codified the formula and procedure at § 37.9 of its regulations.[2] In Order No. 517, the Commission determined that 4.3 percent is an appropriate expected annual dividend growth rate for use in the quarterly indexing procedure during the 12 months beginning February 1, 1990 and that 0.02 percent is an appropriate flotation cost adjustment factor for that period.

The Commission, by its designee, the Director of the Office of Economic Policy, uses the quarterly indexing procedure to determine that the benchmark rate of return on common equity applicable to rate filings made during the period November 1, 1990 through January 31, 1991 is 12.29 percent.

Section 37.9 of the Commission's regulations requires that the quarterly benchmark rate of return be set equal to the average cost of common equity for the jurisdictional operations of public utilities. This average cost is based on the average of the median dividend yields for the two most recent calendar quarters for a sample of 98 utilities. The average yield is used in the following formula with fixed adjustment factors (determined in the most recent annual proceeding) to determine the cost rate:

$$k_t = 1.02\ Y_t + 4.32$$

where k_t is the average cost of common equity and Y_t is the average dividend yield.

The attached appendix provides the supporting data for this update. The median dividend yields for the sample of utilities for the second and third quarters of 1990 are 7.69 percent and 7.93, respectively. The average yield for those two quarters is 7.81 percent. Use of the average dividend yield in the above formula produces an average cost of common equity of 12.29 percent.

This notice supplements the generic rate of return rule announced in Order No. 517, issued December 26, 1989 and effective on February 1, 1990.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission amends part 37, chapter I, title 18 of the *Code of Federal Regulations*, as set forth below, effective November 1, 1990.

Richard P. O'Neill,

Director, Office of Economic Policy.

PART 37—GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

1. The authority citation for part 37 is revised to read as follows:

Authority: 16 U.S.C. 791a–825r; 42 U.S.C. 7101–7352.

2. In § 37.9, paragraph (d) is revised to read as follows:

§ 37.9 Quarterly indexing procedure.

* * * * *

(d) *Table of Quarterly Benchmark Rates of Return.*

The following table presents the quarterly benchmark rates of return on common equity:

Benchmark applicability period (t)	Dividend increase adjustment factor (a)	Expected growth adjustment factor (b)	Current dividend yield (Y_t)	Cost of common equity (k_t)	Benchmark rate of return
Feb. 1, 1986 to Apr. 30, 1986	1.02	4.54	9.03	13.75	13.75
May 1, 1986 to July 31, 1986	1.02	4.54	8.37	13.08	13.25
Aug. 1, 1986 to Oct. 31, 1986	1.02	4.54	7.49	12.18	12.75
Nov. 1, 1986 to Jan. 31, 1987	1.02	4.54	6.75	11.43	12.25
Feb. 1, 1987 to Apr. 30, 1987	1.02	4.63	6.44	11.20	11.20
May 1, 1987 to July 31, 1987	1.02	4.63	6.54	11.30	11.30
Aug. 1, 1987 to Oct. 31, 1987	1.02	4.63	6.97	11.74	11.74
Nov. 1, 1987 to Jan. 31, 1988	1.02	4.63	7.49	12.27	12.27
Feb. 1, 1988 to Apr. 30, 1988	1.02	4.36	7.90	12.42	12.42
May 1, 1988 to July 31, 1988	1.02	4.36	7.99	12.51	12.51
Aug. 1, 1988 to Oct. 31, 1988	1.02	4.36	7.84	12.36	12.36
Nov. 1, 1988 to Jan. 31, 1989	1.02	4.36	7.92	12.44	12.44
Feb. 1, 1989 to Apr. 30, 1989	1.02	4.33	7.89	12.38	12.38
May 1, 1989 to July 31, 1989	1.02	4.33	7.95	12.44	12.44
Aug. 1, 1989 to Oct. 31, 1989	1.02	4.33	7.94	12.43	12.43
Nov. 1, 1989 to Jan. 31, 1990	1.02	4.33	7.56	12.04	12.04
Feb. 1, 1990 to Apr. 30, 1990	1.02	4.32	7.28	11.75	11.75
May 1, 1990 to July 31, 1990	1.02	4.32	7.38	11.85	11.85
Aug. 1, 1990 to Oct. 31, 1990	1.02	4.32	7.59	12.06	12.06
Nov. 1, 1990 to Jan. 31, 1991	1.02	4.32	7.81	12.29	12.29

[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, Order No. 517 55 FR 146 (Jan. 3, 1990, FERC Stats. and Regs. ¶ 30,871 (Dec. 26, 1989).

[2] 18 CFR 37.9 (1989). The most recent adoption of the DCF formula and quarterly indexing procedure came in Order No. 489, 53 FR 3342 (Feb. 5, 1988).

Note: The Appendix will not be published in *Code of Federal Regulations.*

Appendix

Exhibit No. and Title

1—Initial sample of utilities
2—Utilities excluded from the sample for the indicated quarter due to either zero dividends or a reduction in dividends for this quarter or the prior three quarters
3—Annualized dividend yields for the indicated quarter for utilities retained in the sample

Source of Data: Standard and Poor's Compustat Services, Inc., COMPUSTAT PC UTILITY II Data Base.

EXHIBIT 1—SAMPLE OF UTILITIES

Utility	Ticker symbol	Industry code
Allegheny Power System	AYP	4911
American Electric Power	AEP	4911
Atlantic Energy Inc	ATE	4911
Baltimore Gas & Electric	BGE	4931
Black Hills Corp	BKH	4911
Boston Edison Co	BSE	4911
Carolina Power & Light	CPL	4911
Centerior Energy Corp	CX	4911
Central & South West Corp	CSR	4911
Central Hudson Gas & Elec	CNH	4931
Central Ill Public Service	CIP	4931
Central Louisiana Electric	CNL	4911
Central Maine Power Co	CTP	4911
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Duke Power Co	DUK	4911
Eastern Utilities Assoc	EUA	4911
Empire District Electric Co	EDE	4911
Entergy Corp	ETR	4911
Fitchburg Gas & Elec Light	FGE	4931
Florida Progress Corp	FPC	4911
FPL Group Inc	FPL	4911
General Public Utilities	GPU	4911
Green Mountain Power Corp	GMP	4911
Gulf States Utilities Co	GSU	4911
Hawaiian Electric Inds	HE	4911
Houston Industries Inc	HOU	4911
I E Industries Inc	IEL	4931
Idaho Power Co	IDA	4911
Illinois Power Co	IPC	4931
Interstate Power Co	IPW	4931
Iowa Resources Inc	IOR	4911
Iowa-Illinois Gas & Elec	IWG	4931
Ipalco Enterprises Inc	IPL	4911
Kansas City Power & Light	KLT	4911
Kansas Gas & Electric	KGE	4911
Kansas Power & Light	KAN	4931
Kentucky Utilities Co	KU	4911
LG&E Energy Corp	LGE	4931
Long Island Lighting	LIL	4931
Maine Public Service	MAP	4911
Midwest Energy Co	MWE	4931
Minnesota Power & Light	MPL	4911
Montana Power Co	MTP	4931
Neco Enterprises Inc	NPT	4911
Nevada Power Co	NVP	4911
New England Electric System	NES	4911
New York State Elec & Gas	NGE	4931
Niagara Mohawk Power	NMK	4931
Nipsco Industries Inc	NI	4931
Northeast Utilities	NU	4911
Northern States Power—MN	NSP	4931
Ohio Edison Co	OEC	4911
Oklahoma Gas & Electric	OGE	4911
Orange & Rockland Utilities	ORU	4931
Pacific Gas & Electric	PCG	4931
Pacificorp	PPW	4931
Pennsylvania Power & Light	PPL	4911
Philadephia Electric Co	PE	4931
Pinnacle West Capital	PNW	4911
Portland General Corp	PGN	4911
Potomac Electric Power	POM	4911
PSI Resources Inc	PIN	4911
Public Service Co of Colo	PSR	4931
Public Service Co of NH	PNH	4911
Public Service Co of N Mex	PNM	4931
Public Service Entrp	PEG	4931
Puget Sound Power & Light	PSD	4911
Rochester Gas & Electric	RGS	4931
San Diego Gas & Electric	SDO	4931
Scana Corp	SCG	4931
SCECorp	SCE	4911
Sierra Pacific Res	SRP	4931
Southern Co	SO	4911
Southern Indiana Gas & Elec	SIG	4931
St. Joseph Light & Power	SAJ	4931
Teco Energy Inc	TE	4911
Texas Utilities Co	TXU	4911
TNP Enterprises Inc	TNP	4911
Tucson Electric Power Co	TEP	4911
Union Electric Co	UEP	4911
United Illuminating Co	UIL	4911
Unitil Corp	UTL	4911
Utilicorp United Inc	UCU	4931
Washington Water Power	WWP	4931
Wisconsin Energy Corp	WEC	4931
Wisconsin Public Service	WPS	4931
WPL Holdings Inc	WPH	4931

N=98.

EXHIBIT 2—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN THE DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

[Year-90 Quarter-3]

Ticker symbol	Utility	Reason for exclusion
BSE	Boston Edison Co	Dividend rare was reduced for the quarter Calendar 90Q1.
GSU	Gulf States Utilities Co	Dividend rate was zero for quarter Calendar 90Q3.
IPC	Illinois Power Co	Dividend rate was zero for quarter Calendar 90Q3.
NMK	Niagara Mohawk Power	Dividend rate was zero for quarter Calendar 90Q3.
NPT	Neco Enterprises Inc	Dividend rate was zero for quarter Calendar 90Q3.
OEC	Ohio Edison Co	Dividend rate was reduced for the quarter Calendar 90Q3.
PE	Philadelphia Electric Co	Dividend rate was reduced for the quarter Calendar 90Q2.
PNW	Pinnacle West Capital	Dividend rate was zero for quarter Calendar 90Q3.
PGN	Portland General Corp	Dividend rate was reduced for the quarter Calendar 90Q1.
PNH	Public Service Co of N H	Dividend rate was zero for quarter Calendar 90Q3.
PNM	Public Service Co of N ME	Dividend rate was zero for quarter Calendar 90Q3.
TEP	Tucson Electric Power Co	Dividend rate was zero for quarter Calendar 90Q3.

N=12.

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

[Year-90 Quarter-3]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
AEP	29.875	28.625	30.250	26.000	27.250	26.000	28.000	2.400	8.571
ATE	36.375	34.125	36.000	32.000	33.500	31.875	33.979	2.960	8.711

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year-90 Quarter-3]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
AYP	38.500	36.750	38.000	34.250	37.000	34.000	36.417	3.160	8.677
BGE	29.375	27.125	29.250	24.500	26.500	24.375	26.854	2.100	7.820
BKH	29.875	28.125	29.375	27.500	27.875	26.000	28.125	1.640	5.831
CER	34.000	32.000	34.750	30.750	32.375	29.750	32.271	2.460	7.623
CES	35.125	30.375	32.375	30.250	30.750	29.125	31.333	2.920	9.319
CIN	31.750	29.625	31.750	28.500	29.250	28.000	29.813	2.400	8.050
CIP	22.125	20.875	22.250	19.500	20.750	19.625	20.854	1.840	8.823
CMS	33.000	30.750	32.000	27.625	29.750	25.500	29.771	0.400	1.344
CNH	23.500	22.125	23.250	20.000	22.125	21.375	22.063	1.840	8.340
CNL	34.375	33.000	34.750	33.000	33.500	31.500	33.354	2.560	7.675
CPL	44.875	42.250	44.875	38.000	41.250	38.625	41.646	2.920	7.012
CSR	41.250	39.375	41.125	36.625	39.625	37.250	39.208	2.760	7.039
CTP	19.125	18.125	18.875	16.125	17.875	17.125	17.875	1.560	8.727
CV	29.125	27.250	27.750	22.750	24.875	21.875	25.604	2.080	8.124
CWE	33.000	29.125	32.000	27.250	31.375	28.375	30.188	3.000	9.938
CX	19.125	17.625	18.625	16.625	17.125	16.125	17.542	1.600	9.121
D	45.625	43.125	45.875	41.375	43.500	41.500	43.500	3.320	7.632
DEW	19.375	18.000	19.250	17.000	17.750	17.125	18.083	1.540	8.516
DPL	19.625	18.375	19.625	17.250	18.250	17.500	18.438	1.560	8.461
DQE	22.375	21.500	22.625	21.125	22.500	20.750	21.813	1.360	6.235
DTE	28.750	25.750	29.625	25.625	28.000	26.250	27.333	1.780	6.512
DUK	58.000	54.500	59.250	54.000	55.625	54.125	55.917	3.280	5.866
ED	25.000	22.500	25.250	19.750	22.375	20.500	22.563	1.820	8.066
EDE	29.750	28.625	29.875	28.125	28.250	27.250	28.646	2.320	8.099
ETR	20.125	19.000	19.500	18.000	19.500	18.250	19.063	1.000	5.246
EUA	32.875	31.000	32.125	26.125	28.500	25.000	29.271	2.600	8.883
FGE	30.625	27.750	27.750	25.125	32.500	25.750	28.250	2.120	7.504
FPC	37.125	35.750	37.625	34.125	34.625	33.500	35.458	2.640	7.445
FPL	31.250	29.250	31.125	26.500	27.750	26.125	28.667	2.360	8.233
GMP	24.500	22.750	23.875	21.250	23.000	22.000	22.896	2.020	8.823
GPU	44.250	41.250	43.375	38.500	42.000	39.500	41.479	2.600	6.268
HE	33.000	31.500	32.625	27.250	30.125	27.625	30.354	2.160	7 116
HOU	34.000	31.750	34.500	30.750	32.125	30.625	32.292	2.960	9.166
IDA	24.875	23.750	24.750	22.875	24.625	22.750	23.938	1.860	7.770
IEL	25.750	24.625	26.000	23.875	24.500	23.000	24.625	2.060	8.365
IOR	22.375	20.875	21.625	20.000	21.750	20.750	21.229	1.700	8.008
IPL	25.375	23.875	26.000	23.125	24.250	23.125	24.292	1.800	7.410
IPW	25.125	24.000	25.125	23.125	25.125	23.000	24.250	2.000	8.247
IWG	21.375	20.125	21.000	18.750	20.875	19.000	20.188	1.670	8.272
KAN	23.250	21.750	23.375	20.500	21.875	20.375	21.854	1.800	8.236
KGE	25.500	19.625	25.875	23.125	25.875	24.375	24.063	1.720	7.148
KLT	33.375	30.875	31.750	29.125	31.125	29.125	30.896	2.680	8.674
KU	20.000	18.750	20.125	17.250	19.250	17.500	18.813	1.460	7.761
LGE	38.375	36.250	38.750	35.500	36.875	35.250	36.833	2.840	7.710
LIL	21.625	19.625	21.750	18.000	19.250	17.750	19.667	1.500	7.627
MAP	21.750	21.000	22.000	21.125	22.000	21.250	21.521	1.680	7.806
MPL	25.500	24.000	25.375	22.875	23.875	22.250	23.979	1.860	7.757
MTP	19.875	18.250	20.000	17.750	18.875	17.375	18.688	1.420	7.599
MWE	20.750	19.500	20.375	18.375	20.250	18.500	19.625	1.640	8.357
NES	27.000	25.375	27.375	24.000	24.375	22.500	25.104	2.040	8.126
NGE	24.625	22.750	23.750	21.375	23.750	22.250	23.083	2.080	9.011
NI	18.125	16.750	18.500	15.750	16.625	15.875	16.938	1.040	6.140
NSP	36.250	33.750	36.000	28.375	30.625	29.375	32.396	2.320	7.161
NU	19.875	18.625	20.375	18.000	18.625	17.875	18.896	1.760	9.314
NVP	23.000	21.625	23.000	20.000	22.875	20.500	21.833	1.600	7.328
OGE	35.500	33.375	36.750	33.125	34.375	32.875	34.333	2.480	7.223
ORU	30.500	28.750	29.750	26.125	28.750	27.375	28.542	2.340	8.199
PCG	23.250	21.375	23.250	20.000	21.625	20.500	21.667	1.520	7.015
PEG	26.125	24.000	26.125	22.625	24.000	22.500	24.229	2.080	8.585
PIN	17.500	15.625	17.125	14.500	15.500	14.500	15.792	0.800	5.066
POM	21.000	19.500	21.250	18.125	19.375	18.000	19.542	1.520	7.778
PPL	42.875	40.500	42.750	39.125	40.000	39.000	40.708	2.980	7.320
PPW	21.375	19.750	20.875	17.500	20.375	18.500	19.729	1.440	7.299
PSD	20.625	19.375	20.625	18.750	19.500	18.750	19.604	1.760	8.978
PSR	21.500	20.375	21.375	20.000	21.000	20.000	20.708	2.000	9.658
RGS	19.250	18.125	19.250	16.875	18.500	17.500	18.250	1.560	8.548
SAJ	27.500	26.500	27.000	23.000	26.250	23.375	25.604	1.600	6.249
SCE	38.000	36.125	38.875	33.500	36.125	34.750	36.229	2.640	7.287
SCG	33.750	32.000	33.750	31.000	31.375	30.250	32.021	2.520	7.870
SDO	44.375	43.375	44.250	39.500	41.375	39.000	41.979	2.700	6.432
SIG	30.375	29.375	30.375	28.000	29.375	27.875	29.229	1.900	6.500
SO	26.000	24.500	25.625	23.000	24.000	23.250	24.396	2.140	8.772
SRP	22.125	20.750	22.000	18.750	20.000	18.625	20.375	1.840	9.031
TE	29.500	28.125	30.000	27.000	28.125	27.375	28.354	1.620	5.713
TNP	18.750	17.875	18.625	16.250	18.500	16.625	17.771	1.630	9.172
TXU	37.500	34.750	37.750	33.500	34.125	32.125	34.958	2.960	8.467

EXHIBIT 3—ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE—Continued

[Year-90 Quarter-3]

Ticker symbol	Price, 1st month of qtr-high	Price, 1st month of qtr-low	Price, 2nd month of qtr-high	Price, 2nd month of qtr-low	Price, 3rd month of qtr-high	Price, 3rd month of qtr-low	Average price	Dividends annual rate	Annualized dividend yield
UCU	20.000	19.250	20.125	17.500	18.625	17.375	18.813	1.440	7.654
UEP	26.625	25.500	27.375	24.625	25.625	24.875	25.771	2.080	8.071
UIL	29.500	27.750	29.750	26.875	28.750	27.250	28.313	2.320	8.194
UTL	34.875	32.625	34.750	32.625	34.500	32.875	33.708	2.200	6.527
WEC	29.750	28.375	30.000	27.125	28.375	26.625	28.375	1.760	6.203
WPH	22.625	21.125	22.375	20.000	21.875	20.000	21.333	1.740	8.156
WPS	21.375	20.625	21.500	19.750	21.500	20.000	20.792	1.660	7.984
WWP	29.750	28.500	29.875	27.625	28.000	27.000	28.458	2.480	8.714

M=86.

[FR Doc. 90-24663 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Standing Advisory Committees; Editorial Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is making editorial amendments to certain of its regulations on standing advisory committees to improve the accuracy of the regulations.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Robin F. Thomas, Office of Regulatory Affairs (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: FDA is amending certain of its regulations on standing advisory committees to improve the accuracy of the regulations.

21 CFR 14.31(e) is amended to state that FDA may draw consultants from other agencies of the Department of Health and Human Services as well as from other agencies. Section 14.40(b) is amended to clarify that the 15-day notice in the **Federal Register** does not apply to notices of advisory committee charter renewals. Section 14.100 is amended by revising paragraphs (d)(1)(i)(B) through (d)(1)(xvi)(B) to indicate that the panels review and evaluate data on the safety and effectiveness of marketed and investigational devices and make recommendations for their regulation.

The amendments in 21 CFR part 14 are editorial in nature. For this reason, FDA finds for good cause that notice and public procedure are unnecessary (5 U.S.C. 553 (b)(B) and (d)).

List of Subjects in 21 CFR Part 14

Administrative practice and procedure, Advisory committees, Color additives, Drugs, Radiation protection.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Freedom of Information Act, and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 14 is amended as follows:

PART 14—PUBLIC HEARING BEFORE A PUBLIC ADVISORY COMMITTEE

1. The authority citation for 21 CFR part 14 continues to read as follows:

Authority: Secs. 201-903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321-393); 21 U.S.C. 41-50, 141-149, 467f, 679, 821, 1034; secs. 2, 351, 354-360F, 361 of the Public Health Service Act (42 U.S.C. 201, 262, 263b-263n, 264); secs. 2-12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451-1461); 5 U.S.C. App. 2; 28 U.S.C. 2112.

§ 14.31 [Amended]

2. Section 14.31 *Consultation by an advisory committee with other persons* is amended in paragraph (e) by removing "Department of Health and Human Services" and replacing it with "Food and Drug Administration".

3. Section 14.40 is amended by removing the last sentence in paragraph (b) and adding two new sentences to read as follows:

§ 14.40 Establishment and renewal of advisory committees.

* * * * *

(b) * * * A notice of establishment will be published at least 15 days before the filing of the advisory committee charter under paragraph (c) of this section. A notice of renewal does not require the 15-day notice.

* * * * *

§ 14.100 [Amended]

4. Section 14.100 *List of standing advisory committees* is amended by removing the phrase "devices currently in use" each time it appears and replacing it with "marketed and investigational devices" in paragraphs (d)(1)(i)(B), (d)(1)(ii)(B), (d)(1)(iii)(B), (d)(1)(iv)(B), (d)(1)(v)(B), (d)(1)(vi)(B), (d)(1)(vii)(B), (d)(1)(viii)(B), (d)(1)(ix)(B), (d)(1)(x)(B), (d)(1)(xi)(B), (d)(1)(xii)(B), (d)(1)(xiii)(B), (d)(1)(xiv)(B), (d)(1)(xv)(B), and (d)(1)(xvi)(B).

Dated: October 17, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25042 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animals Drugs for Use In Animal Feeds; Monensin

AGENCY: Food and Drug Administration HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to correct an omission made at the time of approval of a supplemental new animal drug application (NADA) filed by Elanco Products Co. (March 26, 1990; 55 FR 11012). The supplemental NADA provides for continuous feeding Type C medicated feed containing monensin to growing turkeys. The approval should have provided for the use of a 60 gram-per-pound Type A medicated article in addition to the use of a 45 gram-per-pound Type A medicated article.

EFFECTIVE DATE: March 26, 1990.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 26, 1990 (55 FR 11012), FDA published the approval of supplemental NADA 130–736 filed by Elanco Products Co., a division of Eli Lilly and Co., Lilly Corporate Center, Indianapolis, IN 46285. The supplement provides for the continuous feeding of monensin for treatment of coccidiosis in turkeys. The approval regulation provided for the use of 45 gram-per-pound monensin Type A medicated article for manufacture of the Type C medicated feed. Following publication, the firm pointed out that NADA 130–736 incorporated information from NADA 38–878 which also provided for the use of a 60 gram-per-pound monensin Type A medicated article and therefore, the published approval should have also provided for use of the 60-gram-per-pound Type A medicated article. Upon further review, the agency agrees, and therefore is publishing a correction.

The freedom of information summary and the environmental assessment which were made available at the time of the approval of the supplemental apply to both concentrations of the medicated article. Similarly, the 3 years of exclusive marketing which was granted effective March 26, 1990, applies to both concentrations of the medicated article.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: Secs. 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b, 371).

2. Section 558.355 is amended by revising paragraphs (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), (b)(9), (b)(11), and (b)(12) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(4) To 000986: 45 and 60 grams per pound, as monensin sodium, paragraph (f)(2) of this section.

(5) To 000007: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraphs (f)(1)(xiii), (f)(1)(xx), and (f)(1)(xxi) of this section.

(6) To 000986: 45 and 60 grams per pound, as monensin sodium, paragraph (f)(5) of this section.

(7) To 000986: 20, 30, 45 and 60 grams per pound, as monensin sodium, paragraph (f)(3) of this section.

(8) To 010042: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xiv) of this section.

(9) To 011716: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraphs (f)(1)(xv), (xvi), and (xvii) of this section.

* * * * *

(11) To 046573: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraphs (f)(1)(xviii), (xix), (xxiii), and (xxiv) of this section.

(12) To 000069: 45 and 60 grams per pound, as monensin sodium provided by No. 000986, paragraph (f)(1)(xxii) of this section.

* * * * *

Dated: October 3, 1990.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation Center for Veterinary Medicine.

[FR Doc. 90–25041 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8317]

RIN 1545–AP12

Minimum Funding Requirements—Plan Restoration

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations that add a new § 1.412(c)(1)–3T to the regulations governing the minimum funding requirements for qualified plans under section 412 of the Internal Revenue Code. The temporary regulation supplements the existing regulations by providing rules for the treatment of plans that are being or have been terminated pursuant to section 4041(c) or 4042 of and are restored to their sponsoring employers by order of the Pension Benefit Guaranty Corporation ("PBGC") pursuant to section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The temporary regulation was developed simultaneously with a new regulation issued by the Pension Benefit Guaranty Corporation under section 4047 of ERISA.

These rules are needed because plan restoration raises unique issues under section 412 but the existing regulations do not provide guidance for the treatment of the funding standard account of a restored plan. The funding standard account of a plan that has been restored must be reestablished because the funding standard account of the plan will have been closed out at the time of termination and there will generally be a hiatus during which no contributions will have been made to the plan.

The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking published in the proposed rules portion of this issue of the Federal Register. These regulations will provide the public with guidance necessary to comply with the law. They will affect sponsors of and participants in tax-qualified retirement plans.

EFFECTIVE DATE: The regulations are effective October 23, 1990, and thus apply for the plan valuation for the first plan year beginning on or after the later of October 23, 1990, or the date of a PBGC restoration order applicable to the plan.

FOR FURTHER INFORMATION CONTACT: Michael J. Roach at telephone 202–566–6260 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document adds new § 1.412(c)(1)–3T to part 1 of title 26 of the Code of Federal Regulations. The document addresses the relationship between the funding requirements of section 412 of the Internal Revenue Code and the restoration provisions of section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The relationship between the minimum funding requirements of section 412 and the restoration provisions of section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA") is one aspect of a long history of statutory interrelationship and coordination that has characterized the development of pension law in this area since the enactment of ERISA. The plan termination insurance program administered by the Pension Benefit Guaranty Corporation ("PBGC") for the protection of participants in defined benefit plans is one of the cornerstones of the congressional policy underlying ERISA. See H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 13. The establishment of

a program of plan termination insurance is predicated on the existence of adequate minimum funding requirements to assure that employers will, in general, fund their pension obligations in a timely manner. During the legislative development of ERISA, Congress reviewed the minimum funding requirements of pre-ERISA law and found them inadequate because, *inter alia*, they did not require the sponsor of a qualified defined benefit plan to contribute sufficient amounts to amortize the principal amount of the unfunded past service liabilities of the plan. H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 73–74.

Accordingly, as part of the overall reform of the pension laws in ERISA, Congress raised the minimum funding standards applicable to qualified plans and required plans to establish and maintain a funding standard account to protect plan participants and the plan termination insurance program. The charges and credits to the funding standard account are prescribed in section 412(b) of the Internal Revenue Code. Additional minimum funding provisions requiring employers to make deficit reduction contributions were added with the enactment of section 412(l) of the Internal Revenue Code as part of the Omnibus Budget Reconciliation Act of 1987 ("OBRA 1987"), Public Law No. 100–203. This additional funding requirement was adopted in substantial part to protect the plan termination insurance system administered by the PBGC from large claims resulting from the termination of underfunded plans. H.R. Rep. No. 100–391 (Vol. II), 100th Cong., 1st Sess., 984.

Section 4047 of ERISA authorizes the PBGC to restore a terminated pension plan to its sponsoring employer whenever the PBGC determines that this action is appropriate and consistent with its duties under title IV of ERISA. In any case in which the PBGC determines that a plan that is being terminated should be restored, it is authorized under section 4047 "to cease any activities undertaken to terminate the plan, and to take whatever action is necessary and within its power to restore the plan to its status prior to the determination that the plan was to be terminated." Similarly, in the case of a plan that has been terminated, the PBGC is authorized in any case in which it determines this action to be appropriate and consistent with its duties under title IV, "to take such action as may be necessary to restore the plan to its pretermination status, including, but not limited to, the transfer to the employer or a plan administrator of control of part or all of the remaining assets and liabilities of the plan."

The legislative history of section 4047 of ERISA demonstrates that Congress intended to confer broad authority on the PBGC to control the details of plan restorations. The purpose of section 4047 is explained as follows in the conference report to ERISA (H.R. Conf. Rep. No. 93–1280, 93d Cong., 2d Sess. 378–379:

Restoration of plans

Neither the House bill nor the Senate amendment had any specific provision that procedures against a plan in the termination phase might be abandoned by the corporation if the employer and plan enjoyed a favorable reversal of business trends, or if some other factor made termination no longer advisable.

Under the conference substitute, the corporation may cease any termination activities and do what it can to restore the plan to its former status. As a result, a terminated plan being operated by a trustee as a wasting trust may be restored if, during the period of its operation by the trustee, experience gains or increased funding make it sufficiently solvent. The corporation may, when appropriate, transfer to the employer or plan administrator part or all of the remaining assets and liabilities.

The United States Supreme Court recently upheld the broad authority of the PBGC to restore a pension plan in *PBGC* v. *LTV Corp.*, 110 S.Ct. 2668 (1990).

The restoration of a pension plan presents unique problems with respect to the application of the minimum funding standards of section 412 of the Internal Revenue Code because a restored plan is being or has been terminated and administered as a terminated plan during the time from the date of termination of the plan to the date of the restoration (or its implementation). During this interval, the funding standard account will have ceased to apply to the plan beginning with the plan year subsequent to the year in which the termination occurred. See Rev. Rule 79–237, 1979–2 C.B. 190. In addition, during the period between the dates of termination and restoration (or its implementation), Schedules B of Form 5500 will not have been completed by the plan actuary, nor will contributions have been made to the plan. When the PBGC acts to restore the plan, the funding standard account must be reestablished and thereafter the funding standard account must be maintained.

The restoration of the plan under section 4047 of ERISA has the effect of retroactively reinstating benefit accruals under the plan because the statute provides for restoration of the plan to its pre-termination status. Because the plan will have been underfunded upon plan termination and because the plan sponsor will ordinarily not have made any contributions to the plan while it was being administered as a terminated plan, the plan is likely to be even more underfunded on restoration. This underfunding will be significantly increased if the plan has been administered as a terminated plan for an extended period of time.

Congress has recognized that, in certain limited cases, the Secretary may by regulation adapt the standards of section 412 to the extent necessary to provide rules for a special group of plans. Thus, for example, Congress expressed its intent to provide flexibility in computing funding requirements for a collectively bargained plan if the collective bargaining agreement under which the plan was funded required the employers contributing to the plan to pay a fixed amount per unit of service or production and if the employers complied with their obligations under the agreement. H.R. Rep. No. 93–1280, 93d Cong., 2d Sess., 285. In order to provide a mechanism for computing the minimum funding requirements based on estimated units of service or production in the case of collectively bargained plans, the Secretary promulgated the shortfall method in § 1.412(c)(1)–2 of the Treasury Regulations. T.D. 7733, 1981–1 C.B. 234.

The rules in these temporary regulations apply to a plan that is being or has been terminated and restored by the PBGC and they provide a restoration method for funding the unfunded liability of the plan that is attributable to plan years prior to the later of the restoration or its implementation. Under this method, the required funding level for these liabilities is established by the PBGC in a restoration payment schedule order for a period that may be as long as 30 years after the beginning of the plan year in which the initial post-restoration valuation date falls.

Establishment of the restoration payment schedule by the PBGC is appropriate because the PBGC will normally have detailed knowledge of the financial condition of the plan sponsor (and its controlled group) of a restored plan, because the PBGC is directly at risk if restoration is ultimately unsuccessful and a restored plan must be re-terminated. It is also appropriate and essential to the effective administration of section 412 that the Secretary prescribe certain limits with respect to the restoration funding schedule in order to ensure that the schedule is consistent with and in

furtherance of the congressional purposes underlying section 412.

Explanation of Provisions

Appropriate provisions for the amortization of the large unfunded liability arising, in part, as a result of the lapse of time between the termination of a plan and the resumption of contributions to it are necessary to implement the PBGC's restoration authority. These regulations provide parameters within which the PBGC shall establish a restoration payment schedule consistent with the orderly restoration of the plan.

The regulations create a special funding method, known as the restoration method, which method adapts the underlying funding method used by the plan to the special circumstances that exist when a plan is restored. The restoration method is applicable only to plans that are being or have been terminated and are then restored by the PBGC. When the PBGC establishes a restoration payment schedule, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of the deferrals permitted under the temporary regulations), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be reterminated.

A plan that is being or has been terminated and restored, must use the restoration method until the initial restoration amortization base has been fully amortized. Use of the restoration method is permitted without securing prior approval from the Commissioner.

For purposes of applying the restoration method, § 1.412(c)(1)–3T(b) of the regulations creates a special amortization base, known as the initial restoration amortization base, consisting of the unfunded liability of the plan as of the valuation for the plan year in which the initial post restoration valuation date falls, based upon the assets and liabilities restored by the PBGC. This initial restoration amortization base must be amortized over not more than 30 years. During this period, the plan sponsor and any controlled group members must contribute an amount sufficient to satisfy the requirements of section 412 taking into account the plan restoration provisions of this regulation § 1.412(c)(1)–3T. At the end of the period established by the restoration payment schedule, the plan is required to comply with the minimum funding requirements of section 412 of the Internal Revenue Code in the same manner as a plan that had never been terminated and restored.

The PBGC must issue a restoration payment schedule order using the initial restoration amortization base. The factors that the PBGC may consider in prescribing a restoration payment schedule to amortize the initial restoration amortization base include but are not limited to the following: (1) The need for the plan to make an orderly transition from terminated status to ongoing status as a restored plan, and (2) the need for the plan sponsor and its controlled group members to have sufficient time to fund the accrued liabilities of the plan arising from prerestoration service, (3) the interests of plan participants and beneficiaries, (4) the financial condition of the plan, (5) the financial condition of the plan sponsor and its controlled group members, (6) changes in the law affecting the funding requirements applicable to the restored plan, (7) the length of time between the date the plan was terminated and the date of a PBGC restoration order, its implementation, or the restoration payment schedule order, (8) the grounds for the restoration, (9) the risk to the PBGC's plan termination insurance program, and (10) the pre-termination funding history of the plan.

The restoration payment schedule must provide that at the end of no more than 30 years, the entire amount of the initial restoration amortization base will have been amortized. Unlike the amortization bases described in section 412(b) of the Internal Revenue Code, however, the amortization charges need not be in level annual amounts. Nevertheless, at all times the present value of the future amortization charges under the restoration payment schedule must equal the outstanding balance of the initial restoration amortization base and the schedule must provide that at the end of no more than 30 years the entire amount of the initial restoration amortization base will have been fully amortized.

In addition, any restoration payment schedule established pursuant to these regulations must meet certain minimum annual payments and must satisfy certain interim amortization requirements. Under these regulations, the restoration payment schedule must provide for sufficient periodic charges so that the outstanding balance of the initial restoration amortization base at the end of the tenth plan year and at the end of the twentieth plan year of the restoration payment period will not be larger than the outstanding balances that would have remained at the end of the tenth plan year and at the end of the twentieth plan year, respectively, if the initial restoration amortization base had been amortized in level amounts over the restoration payment period. In addition, during each 10-year interval, the restoration payment schedule must require payments that are sufficient to prevent the outstanding balance of the initial restoration amortization base from exceeding the balance at the beginning of the interval.

As is the case with other bases used to amortize unfunded costs of a plan, the charges required under the restoration payment schedule prescribed by the PBGC are charged to the funding standard account of the plan in the year each payment is due. In the event that the plan sponsor or its controlled group members makes contributions in excess of those required, the resulting credit balances will be available to satisfy the charges in subsequent plan years.

The outstanding balance of the initial restoration amortization base must be calculated each year in conformity with the usual actuarial practice applicable to other amortization bases established under section 412(b) of the Internal Revenue Code. In determining the outstanding balance of this base, however, the calculation must be based upon the charges under the restoration payment schedule. Under the regulations, the Pension Benefit Guaranty Corporation may grant a deferral of the payment required under the restoration payment schedule for a particular year, under the conditions and in the manner provided in the regulations.

The normal operation of the funding standard account, and the other provisions of section 412 and the regulations thereunder, are unchanged except as provided in this plan restoration regulation § 1.412(c)(1)–3T. If the actuarial assumptions and methods used in calculating the assets and liabilities of the plan are changed consistent with requirements of section 412(c)(3), and if the change results in a net change to the scheduled payments required to amortize the outstanding balance of the initial restoration amortization base over the remaining years of the restoration payment schedule, the plan must notify the PBGC of the changes so that the PBGC can make any necessary changes to the restoration payment schedule.

When a plan is under the restoration method, the deficit reduction

contribution under section 412(l)(2) of the Internal Revenue Code is composed of the unfunded section 412(l) restoration liability amount plus the unfunded new liability amount. The unfunded section 412(l) restoration liability amount is the amount necessary to amortize the section 412(l) restoration liability in annual installments, not necessarily level, as prescribed by the PBGC over a period of not more than 30 years. During the first 10 years after the initial postrestoration valuation date, the computation of the unfunded section 412(l) restoration liability amount must be made at the valuation interest rate, if that rate is lower than the current liability interest rate determined under section 412(b)(5)(B).

The difference between the unfunded section 412(l) restoration liability amount computed at the current liability rate and the unfunded section 412(l) restoration liability amount computed at the valuation rate must be accumulated during the first 10 years with interest at the current liability rate. This accumulated balance must be charged to the funding standard account of the plan at the end of the tenth plan year, but the PBGC may spread the charging of this amount over the eleventh through the fifteenth plan years, by an appropriate order. This rule is designed to give the PBGC a sufficient amount of flexibility in developing an amortization payment schedule under section 412(l) to enable the employer to meet its funding obligations to the restored plan during the years immediately after the restoration. The unfunded new liability amount is the applicable percentage, as determined under section 412(l)(4)(C), of the difference between the unfunded current liability of the plan and the outstanding balance of the section 412(l) restoration liability of the plan. The section 412(b) restoration payment for each year shall be offset against the deficit reduction contribution for that year, along with any other applicable offset amounts, as provided in section 412 (l)(1)(A)(ii).

When the plan uses a funding method that does not maintain an unfunded liability, *e.g.* the aggregate method, the plan must change to a method that does maintain an unfunded liability. A plan may adopt any acceptable method, i.e. any method that maintains an unfunded liability, subject to the procedures established in Rev. Proc. 85–29, 1985–1 C.B. 581, as extended by Notice 90–63 (October 22, 1990), I.R.B. 43.

The PBGC retains the authority to modify the restoration payment schedule at any time during the period of up to 30 years that the schedule is effective. Any modification must, however, comply with the requirements of the regulation, including the minimum payment requirements and the requirement that the 30-year period not be extended. In addition, the PBGC may conduct a funding review of the plan at any time it deems appropriate. The purpose of a funding review is to determine the progress that the plan is making toward the establishment of an adequate level of funding, to make appropriate adjustments in the restoration payment schedule, and to assure an orderly transition when the restoration method ceases to apply. As part of the annual funding review, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of the deferrals allowed under the temporary regulations), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be reterminated.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impractical to issue this Treasury decision with notice and public procedure under subsection (b) or section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Effect on Other Laws

Pursuant to the Reorganization Plan No. 4 of 1978, satisfaction of the restoration method requirements set forth in these regulations will be treated as satisfaction of the minimum funding requirements under section 302 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (ERISA). Failure to make a required payment under the restoration method may be treated by the Secretary of Labor as a failure to meet the minimum funding standard under ERISA section 302 for purposes of the notice required under ERISA section 101(d).

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, a Regulatory Flexibility Analysis is not required.

Drafting Information

The principal author of these temporary regulations is Michael J. Roach of the Office of Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, other personnel from the Service and the Treasury Department participated in developing the regulations, on matters of both substance and style.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for part 1 continues to read, in part, as follows:

Authority: 26 U.S.C. 7805; * * *.

Par. 2. The following new section is added to part 1 in the appropriate place to read as follows:

§ 1.412(c)(1)–3T. Applying the minimum funding requirements to restored plans (Temporary).

(a) *In general*—(1) *Restoration method.* The restoration method is a funding method that adapts the underlying funding method of section 412 in the case of certain plans that are or have been terminated and are later restored by the Pension Benefit Guaranty Corporation. The normal operation of the funding standard account, and all other provisions of section 412 and the regulations thereunder, are unchanged except as provided in this § 1.412(c)(1)–3T. Under the restoration method, the Pension Benefit Guaranty Corporation shall determine a restoration payment schedule, extending over no more than 30 years, that replaces all charges and credits to the funding standard account attributable to pre-restoration amortization bases. The restoration payment schedule is determined on the basis of an actuarial valuation of the accrued liability of the plan on the initial post-restoration valuation date less the actuarial value of the plan assets on that date. The initial post-restoration valuation date is the date of the first valuation that falls in the first plan year beginning on or after the later

of October 23, 1990, or the date of the restoration order.

(2) *Applicability of restoration method.* A plan must use the restoration method if, and only if:

(i) The plan is being or has been terminated pursuant to section 4041(c) or section 4042 of the Employee Retirement Income Security Act of 1974 (ERISA), and

(ii) The plan has been restored by the Pension Benefit Guaranty Corporation pursuant to its authority under section 4047 of ERISA.

(b) *Computation and effect of the initial restoration amortization base*—(1) *In general.* The initial restoration amortization base is determined under the underlying funding method used by the plan. When the plan uses a spread gain funding method that does not maintain an unfunded liability, the plan must change either to an immediate gain method that directly calculates an accrued liability or to a spread gain method that maintains an unfunded liability. A plan may adopt any cost method that satisfies this requirement and that is acceptable under section 412 and the regulations thereunder, provided that the plan follows the procedures established by the Commissioner for changes in funding methods. The initial restoration amortization base is determined using the valuation for the plan year in which the initial post-restoration valuation date falls. The initial restoration amortization base equals the accrued liability with respect to plan benefit liabilities returned by the Pension Benefit Guaranty Corporation less the value of the plan assets returned by the Pension Benefit Guaranty Corporation. The initial restoration amortization base replaces all prior amortization bases including those under subparagraphs (B), (C), and (D) of section 412(b)(2) and under subparagraph (B) of section 412(b)(3). Any base resulting from a change in funding method is treated as a prior amortization base within the meaning of this paragraph (b). Any accumulated funding deficiency or credit balance in the funding standard account is set equal to zero when the initial restoration amortization base is established.

(2) *Example.* A pension plan uses the calendar year as its plan year, makes its annual periodic valuation as of January 1, and uses the unit credit actuarial cost method for funding purposes. The plan is in the process of being terminated. By order of the Pension Benefit Guaranty Corporation the plan is restored as of July 1, 1991, and a restoration payment schedule order issued on October 31, 1992. The initial post-restoration valuation date is January 1, 1993. If, as of that date, the accrued liability of the plan is $1,000,000 and the value of the plan assets is $200,000, the initial restoration amortization base is $800,000.

(c) *Establishment of a restoration payment schedule*—(1) *Certification requirement.* When the PBGC establishes a restoration payment schedule, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals authorized under paragraph (c)(4) of this section), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be reterminated.

(2) *Requirements for restoration payment schedule*—(i) *Amortization of base over period of no more than 30 years.* The restoration payment schedule must be prescribed in an order requiring the employer to make stated contributions to the plan sufficient to amortize the initial restoration amortization base over a period extending not more than 30 years after the initial post-restoration valuation date (the restoration payment period). The restoration payment schedule must be sufficient to amortize the entire amount of the initial restoration amortization base by the end of the restoration payment period. The scheduled charges need not be in level amounts, but the present value of the prescribed charges on the initial post-restoration valuation date, computed with interest at the valuation rate, must equal the initial restoration amortization base.

(ii) *Minimum annual charge.* The restoration payment schedule must require annual charges that are sufficient to prevent the outstanding balance of the initial restoration amortization base from exceeding whichever of the following amounts is applicable:

(A) During the first 10 plan years on the restoration payment schedule, the amount of the initial restoration amortization base on the date the base was established, or

(B) During plan years 11 through 20 on the restoration payment schedule, the maximum permitted outstanding balance of the initial restoration amortization base at the end of the tenth plan year, as calculated under paragraph (c)(2)(iii) below, or

(C) During plan years 21 through the end of the restoration payment schedule, the maximum permitted outstanding balance of the initial restoration amortization base at the end of the twentieth plan year, as calculated under paragraph (c)(2)(iii) below.

(iii) *Interim amortization requirements.* The restoration payment schedule must provide for sufficient periodic charges so that the outstanding balance of the initial restoration amortization base at the end of the tenth plan year and at the end of the twentieth plan year of the restoration payment period will not be larger than the outstanding balance that would have remained at the end of the tenth plan year and at the end of the twentieth plan year, respectively, if the initial restoration amortization base had been amortized in level amounts over the restoration payment period at the valuation rate.

(3) *Amendments to the restoration payment schedule.* The order establishing the restoration payment schedule may be amended by the Pension Benefit Guaranty Corporation from time to time with respect to any remaining payments, provided that no amendment may extend the restoration payment period beyond 30 years from the initial post-restoration valuation date, and provided further that the restoration payment schedule, as amended, satisfies the requirements of paragraph (c)(2) of this section.

(4) *Deferral of minimum scheduled annual payment amounts*—(i) *Authority to grant deferral.* Not later than 2½ months following the end of the plan year, the Pension Benefit Guaranty Corporation may grant a deferral of the charges required in the restoration payment schedule for that plan year if the requirements in paragraph (c)(4)(ii) of this section are satisfied. The Pension Benefit Guaranty Corporation may require the plan sponsor and its controlled group members to provide security to the plan as a condition to granting a deferral.

(ii) *Determination of business hardship.* Before granting a deferral under this paragraph (c)(4), the Pension Benefit Guaranty Corporation must make a determination that the granting of the deferral is in the best interests of plan participants and the plan termination insurance system, and that the plan sponsor and its controlled group members are unable to make the scheduled restoration payments without experiencing temporary substantial business hardship. In making these

determinations, the factors the Pension Benefit Guaranty Corporation shall consider, include, but are not limited to, the following:

(A) Whether the plan sponsor and its controlled group members are operating at an economic loss,

(B) Whether there is substantial unemployment or underemployment in the trades or businesses of the plan sponsor and its controlled group members,

(C) Whether the sales and profits of the industry or industries are depressed or declining, and

(D) Whether it is reasonable to expect that the plan termination insurance system will suffer a greater loss if the plan is terminated than if it is continued as a restored plan.

(iii) *Amount of deferral.* The amount of the deferral for any particular plan year may not exceed the lesser of the amount that would have been required to be contributed under the restoration payment schedule for that year or interest on the outstanding balance of the initial restoration amortization base for that year. An amortization payment for a deferral granted for a prior plan year may not be deferred. No deferral may extend the overall restoration payment period beyond 30 years.

(iv) *Modification of payment schedule.* The restoration payment schedule must be adjusted to reflect any deferral granted for a plan year in the manner prescribed in this paragraph (c). The charge otherwise specified in the schedule is reduced by the amount of any deferral. The charges under the restoration payment schedule for the subsequent plan years are increased by the amounts in paragraph (c)(4)(v) of this section.

(v) *Amortization of deferred amount.* The amount of any deferral granted by the Pension Benefit Guaranty Corporation for any plan year must be amortized in level amounts over five years or such shorter period as may be prescribed by the Pension Benefit Guaranty Corporation, at the valuation rate, beginning with the plan year following the year of the deferral.

(vi) *Number of deferrals permitted.* The Pension Benefit Guaranty Corporation may not grant more than five deferrals of the minimum scheduled payments as required by this section during the restoration payment period and no more than three of these deferrals may be granted during the first ten years of that period.

(d) *Charging the scheduled restoration charges to the funding standard account.* In addition to any other charges and credits prescribed in the normal operation of the funding standard account under section 412, the amount of each charge specified in the restoration payment schedule shall be charged against the funding standard account of the plan for the plan year to which that payment is attributed in the restoration payment schedule.

(e) *Changes in actuarial assumptions.* If changes in actuarial assumptions increase or decrease the charges that would be required to amortize the outstanding balance of the initial restoration amortization base over the remaining years of the restoration payment schedule, the plan must notify the Pension Benefit Guaranty Corporation of the changes so that it may make appropriate changes to the restoration payment schedule.

(f) *Change to restoration method.* A plan that has been restored must use the restoration method until the initial restoration amortization base has been fully amortized. The use of this method does not require prior approval from the Commissioner. A plan using the restoration method must compute the charges and credits to the initial restoration amortization base in accordance with the order of the Pension Benefit Guaranty Corporation and in accordance with this section.

(g) *Deficit reduction contribution*—(1) *Calculation of deficit reduction contribution.* For any plan using the restoration method, the deficit reduction contribution under section 412(l)(2) is equal to the sum of—

(i) the unfunded section 412(l) restoration liability amount, plus

(ii) the unfunded new liability amount.

(2) *Unfunded section 412(l) restoration liability amount.* The unfunded section 412(l) restoration liability amount is the amount necessary to amortize fully the unfunded section 412(l) restoration liability in installments, as prescribed by the Pension Benefit Guaranty Corporation, over not more than 30 years. The annual amount need not be level, but at all times the present value of the future amortization charges under the restoration payment schedule, at the current liability interest rate, must equal the outstanding balance of the unfunded section 412(l) restoration liability and the schedule must provide that at the end of no more than 30 years the entire amount of the unfunded section 412(l) restoration liability base will have been fully amortized. The schedule prescribed for amortization of the unfunded section 412(l) restoration liability must comply with the requirements imposed in paragraph (c) of this section on the restoration payment schedule, except as provided in paragraph (g)(7) of this section and except that the maximum permitted outstanding balance of the unfunded section 412(l) restoration liability at the end of the tenth plan year must not be greater than the outstanding balance of the section 412(l) restoration liability that would have remained at the end of the tenth plan year if the unfunded section 412(l) restoration liability had been amortized in level amounts over the restoration payment period at the current liability interest rate, increased by the current liability interest rate differential as defined under paragraph (g)(7) of this section. The Pension Benefit Guaranty Corporation may amend the amortization schedule for the unfunded section 412(l) restoration liability subject to the limits on amendments to the amortization schedule prescribed for the initial restoration amortization base.

(3) *Establishment of unfunded section 412(l) restoration liability.* In the plan year in which the initial post-restoration valuation date falls, the unfunded section 412(l) restoration liability is equal to the unfunded current liability of the plan.

(4) *Unfunded new liability amount.* In the case of a plan using the restoration method, the unfunded new liability amount is the applicable percentage, as defined in section 412(l)(4)(C), of the unfunded new liability determined under paragraph (g)(5) of this section.

(5) *Unfunded new liability.* The unfunded new liability of a plan using the restoration method is the unfunded current liability of the plan for the plan year less the outstanding balance of the unfunded section 412(l) restoration liability determined under paragraph (g)(3) of this section and less any unpredictable contingent event benefit liabilities (without regard to whether or not the event has occurred).

(6) *Offset of amortization charges.* The charges specified in the restoration payment schedule to amortize the initial restoration amortization base, must be offset against the deficit reduction contribution in paragraph (g)(1) of this section along with any other applicable amounts provided in section 412 (l)(1)(A)(ii).

(7) *Interest rate differential.* During the first 10 plan years after the initial post-restoration valuation date, the unfunded section 412(l) restoration liability amount for the plan as determined for purposes of this section must be sufficient to prevent the outstanding balance of the unfunded section 412(l) restoration liability from exceeding the initial amount of the unfunded section 412(l) restoration liability increased by the current liability interest rate differential. The current liability interest rate differential

at any point during the first ten years of the restoration payment period is the excess if any of the accumulated interest on the unfunded section 412(l) restoration liability amount computed at the current liability interest rate over the accumulated interest on the unfunded section 412(l) restoration liability amount computed at the current liability interest rate for the plan year in which the initial post restoration valuation date falls. The current liability interest rate differential is charged to the funding standard account at the end of the tenth plan year, but the Pension Benefit Guaranty Corporation may, as part of the restoration payment schedule order, or a modification to that order, direct that the charging of this amount must be spread over not more than 5 years, beginning with the eleventh plan year.

(h) *Election of the alternative minimum funding standard.* A plan using the restoration method may not elect the alternative minimum funding standard under section 412(g).

(i) *Funding review by the Pension Benefit Guaranty Corporation.* The Pension Benefit Guaranty Corporation must review the funding of any plan using the restoration method at least once in each plan year. As a result of a funding review, the Pension Benefit Guaranty Corporation may amend the restoration payment schedule as provided in paragraph (c)(3) of this section. As part of the funding review, the Executive Director of the PBGC must certify to the Corporation's Board of Directors, and to the Internal Revenue Service, that the Corporation has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals authorized under paragraph (c)(4) of this section), and any other factor that the Corporation deems relevant, and, based on that review, determines that it is in the best interests of participants and beneficiaries of the plan and the pension insurance program that the restored plan not be reterminated.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

Approved: October 15, 1990.

Kenneth W. Gideon,

Assistant Secretary of the Treasury.

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[T.D. ATF-303; Ref.: Notice No. 699]

Standards of Fill for Wine; New 500 Milliliter Size (89F124P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: ATF is amending the "standards of fill" regulations to authorize a new bottle size for wine. This will permit wine to be bottled, removed from bond or customs custody, and entered into interstate commerce in containers of 500 milliliters (ml). Formerly, ATF regulations allowed the 500 ml size only for exports and intrastate commerce, but not for interstate commerce. Authorization of this size in interstate commerce will enable the wine industry to respond to consumer demand for an intermediate size betwen 375 ml and 750 ml.

EFFECTIVE DATE: February 20, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Simon, Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226; (202) 566-7531.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR 4.73 provide metric standards of fill for wine. Including the new 500 ml size, the following standards of fill will be provided: 50 ml, 100 ml, 187 ml, 375 ml, 500 ml, 750 ml, 1 liter, 1.5 liters, and 3 liters. Sizes larger than 3 liters are permitted if they are in even-liter quantities (4 liters, 5 liters, 6 liters, etc.). Containers of 18 liters or more are not subject to the standards of fill, but the net contents of such containers must be stated in accordance with 27 CFR 4.37. The standards of fill apply to imported and domestic wine in interstate commerce, but they do not apply to exported wine, or to wine for sale only within a single State (intrastate commerce) pursuant to a certificate of exemption.

Metric standards of fill for wine were first prescribed by Treasury Decision (T.D.) ATF-12 (39 FR 45216, Dec. 31, 1974; corrected at 40 FR 1240, Jan. 7, 1975). The metric standards became mandatory on January 1, 1979. Previous regulations had precribed 16 different sizes for domestic products (including the 15/16 quart size for aperitif wines) and had exempted imports from all size restrictions. In consequence, there was an excessive proliferation of sizes. This was found to be confusing to consumers. One of the purposes of T.D. ATF-12 was to alleviate this confusion.

In accordance with that purpose, ATF has generally denied requests to add new standards of fill, except where there was a strong showing of need. Several previous requests to add a 500 ml wine size were denied. Nevertheless, on two occasions, the standards of fill for wine were amended to allow additional sizes. T.D. ATF-49 (43 FR 19846, May 9, 1978) allowed even-liter sizes larger than 3 liters and exempted containers of 18 liters or more from the standards of fill. T.D. ATF-76 (46 FR 1725, Jan. 7, 1981) added the 50 ml miniature size, which is used primarily for single servings of dessert wine.

Petition for 500 ml Wine Bottle

Under 27 CFR 71.41(c), any interested person may petition ATF for the issuance, amendment, or repeal of a regulation. The petition must give cogent reasons for the proposed action.

On March 27, 1989, a petition was received from Mr. George Vierra, general partner of Merlion Winery, requesting the establishment of a new 500 ml standard of fill for wine. With the petition, there were supporting statements from 52 wineries and 14 distributors. Subsequently, Mr. Vierra submitted 28 additional supporting statements from persons representing 10 wineries and at least 4 distributors.

Further support for Mr. Vierra's proposal was forthcoming from other sources. About 40 persons—mostly consumers—wrote on their own to express support, and several newspapers and magazines published articles in favor of the proposal.

This demonstration of support indicated that there was significant interest in the use of a 500 ml wine bottle. Therefore, on April 4, 1990, ATF published a notice of proposed rulemaking in the **Federal Register** (Notice No. 699, 55 FR 12522), which proposed the addition of a 500 ml standard of fill.

Public Comments

Notice No. 699 requested comments from all interested persons concerning the proposed amendment. In response, 280 comments were filed during the comment period. Of this total, only three were opposed to the proposal. The rest were in favor. After the close of the comment period, but not too late for consideration, seven more comments

were received, of which six were in favor and one was opposed.

Those commenters favoring the proposal consisted of 229 consumers, 38 wineries and vineyards, 9 retailers and wholesalers, and 7 others (including 1 bottle manufacturer). The great majority of the comments favoring the proposal were "form letters," sent from many parts of the U.S., reading as follows:

> This letter gives full support to approval of Notice No. 699. The ATF regulation 27 CFR 4.73 should be changed to allow a 500-ml bottle be permitted (sic) in interstate commerce by the BATF. Please expedite this final rule change.

A substantial minority (more than 60) of the comments stated specific reasons, written by the commenters, to explain their support for the proposal. The most common reason (stated by 14 consumers, 7 wineries, 3 U.S. distributors, and 1 foreign exporter) was that a 500 ml bottle would be more appropriate than any currently authorized size for two people to enjoy with a meal. Some of these commenters (eight consumers, one winery, one retailer, and one importer) specifically mentioned the appropriateness of this size in a restaurant setting. A related reason, emphasized by 13 consumers, 6 wineries, 4 distributors, and the foreign exporter, was that the 500 ml size would promote moderation and hence reduce the hazard of "driving while intoxicated." An article by Dan Berger of the Los Angeles Times, submitted by one of the commenters, is instructive in this regard. Mr. Berger wrote:

> California law states that if you are found to have a blood alcohol level of .08 percent, you are considered legally drunk. And the state says if you consume three four-ounce glasses of wine in an hour (length of a standard dinner), you will exceed .08 blood level.

Considering that a 750 ml bottle contains 25.4 ounces, Mr. Berger concluded that drinking half of a 750 ml bottle of wine with dinner "may cause some people to be considered 'legally' drunk."

Another important rationale, advocated by seven consumers, four wineries, an importer, a columnist, and a bottle manufacturer, was that consumers and producers should have freedom of choice to market or purchase the 500 ml size as an additional option. One consumer pressed this argument to the extreme, advocating the elimination of all standards of fill. However, the comments received by ATF in response to Notice No. 633 (52 FR 23685) demonstrate that the overwhelming majority of wine consumers want specific standards of fill. Therefore, in Notice No. 696 (55 FR 3980) the option of eliminating standards of fill was rejected.

Numerous other reasons were cited by commenters in favor of the 500 ml bottle. These included:

—U.S. exporters' markets would be enhanced.
—Limited-production wines could be distributed to 50% more consumers (as compared with the 750 ml bottle).
—Very expensive wines could be offered in a more affordable size.
—Distinctive marketing and bottle appearance would prevent confusion with other sizes.
—The 500 ml size would be appropriate for Americans (who drink less wine than Europeans), and especially for some younger consumers, who are thought to "drink less and drink better.
—Faster aging in the 500 ml bottle than in the 750 ml means that some wines would be ready for consumption sooner.
—Less contact with air would give wines in 500 ml bottles better aging potential, as compared with the 375 ml size.
—For consumers, wine in 375 ml bottles is very expensive on a per-ounce basis.
—For retailers, a smaller investment per case (versus the 750 ml size) would mean more profits and the ability to offer more variety.
—In restaurants, a party of four could buy one 500 ml bottle to share with the appetizer and another, containing a different wine, to enhance the main course.
—Some rare European wines are produced only in the 500 ml size; the new standard of fill would give American consumer access to these wines.

Comments in Opposition

During the comment period, three wine producers submitted comments in opposition to the proposal. They were Joseph E. Seagram & Sons, Inc., Heublein, Inc., and the Clos du Val Wine Company Ltd. They pointed out certain negative impacts of the proposal for producers, distributors, consumers, and the Government. For producers, the main concern was the added expense needed to establish new bottling lines and to handle, warehouse, account for, and advertise the new size. For distributors, the negative impacts foreseen included confusion (as to which size to order or recommend to customers), lack of storage and display space, and advertising expenses. For consumers, the anticipated problems included confusion, lack of demand for a new size, and price increases, resulting in loss of confidence and a bad image for the wine industry. Negative impacts expected for the Government would be the need to spend additional time auditing inventory records, and declining tax revenues if total wine sales should diminish.

After considering these comments, ATF feels that the reasons in favor of the 500 ml size outweigh those adduced against it. ATF has determined that the disadvantages to the Government will be slight or nonexistent. Further, the disadvantages to distributors and consumers, which the opposition commenters anticipated, do not seem to be of great concern to persons actually in those categories, to judge from the comments received in support of the proposal. Finally, the disadvantages to producers did not deter a large number of other wineries from supporting the proposal. Those other wineries apparently felt that the advantages of the proposal would sufficiently offset any disadvantages. ATF notes that the use of the 500 ml bottle size will be at the election of the proprietor.

After the close of the comment period, another comment opposing the proposal was received. This comment, from a wine importer, urged ATF to reject the proposal for the reasons we had cited in our earlier decisions eliminating the 500 ml distilled spirits size and rejecting previous petitions for a 500 ml wine size.

However, as noted in Notice No. 699, there are differences between wine and distilled spirits that support different regulatory treatment. Wine deteriorates more rapidly in an opened bottle, which means that consumers have a greater need to be able to purchase a size that exactly meets their requirements for immediate consumption. Further, distilled spirits bottles come in a greater variety of shapes, which increases the potential for confusion between similar sizes. By contrast, wine bottles generally appear in just a few standard shapes, thus facilitating size comparison. One of the comments supporting the new size included a photograph of a 500 ml wine bottle flanked by a 375 ml bottle and a 750 ml bottle. Each size is readily distinguishable. Therefore, ATF has determined that the reasons for eliminating the 500 ml distilled spirits size are not applicable to wine.

In the denials of previous requests for a 500 ml wine bottle, five reasons were cited, which were: (1) There was no apparent need for this size, since it is fairly close to the authorized 375 ml size. (2) There seemed to be a possibility of consumer deception, due to similarity

with the 375 ml bottle. (3) The standards of fill for wine are generally based on the 750 ml size (most other sizes are even fractions or multiples of this basic size to facilitate easy comparison); a 500 ml size would not fit into this pattern. (4) There was no evidence of significant demand for a 500 ml size. (5) ATF opposed any tendency to return to the "size proliferation" that preceded the establishment of metric standards of fill.

After carefully reviewing the evidence submitted in this rulemaking process, ATF has concluded that these reasons should not be followed. With respect to the first reason, evidence was received concerning the deterioration of wine in opened bottles, the dining habits of couples who consume wine with a meal, and the alcohol level required for legal intoxication. This evidence indicates that there is, in fact, a need for the 500 ml wine bottle. The premise of the second reason (that a 500 ml bottle could be easily confused with other authorized sizes) was denied by the majority of those who addressed this issue. ATF is now persuaded that, in the context of the wine industry, there is no significant danger of consumer confusion. With respect to the third reason, although the 500 ml size is not a multiple of 750 ml, it is exactly half the size of the 1 liter bottle and is also an even multiple or fraction of the 50 ml, 100 ml, 1.5 liter, and 3 liter sizes. As for the fourth reason, the large volume of comments favoring the proposal indicates that there is consumer demand for the 500 ml size. Finally, while ATF remains opposed to "size proliferation," the addition of merely one size will not greatly alter the present situation, and there are many good reasons for allowing this limited expansion.

In conclusion, there appears to be significant demand for a 500 ml size, and the arguments against it have been sufficiently rebutted. Therefore, ATF is prescribing this new size.

Effective Date

The Jordan Winery, while supporting the 500 ml size, requested that the effective date of the change be delayed by one year, so that the American wine industry would have adequate time to prepare. The commenter stated, "European producers already have access to the 500 ml glass bottles and could jump into the U.S. market ahead of our own wine producers if we are not protected by a delayed date of activation."

ATF acknowledges that an adequate lead-in time is appropriate. On the other hand, we question whether a full year is needed for this. No other winery raised this issue, and 2K Packaging Enterprises, Inc., (a wine bottle supplier) stated in its comment: "Such a move (i.e. authorizing the 500 ml bottle) would not pose any particular difficulties from a packaging point of view.

Wineries now bottling the 375 ml and 750 ml bottles would not be confronted with any technical problems should they decide to add the 500 ml bottle to (their) program."

Further, other interests besides those of the wineries must be taken into account. American consumers, importers, and retailers would likely favor an immediate effective date. The form letter submitted by so many consumers stated, "Please expedite this rule change."

In T.D. ATF–146 (48 FR 43319), which authorized the 100 ml and 375 ml sizes for distilled spirits, a delay of approximately 3½ months was provided to "permit industry to make the necessary preparations to bottle and market the new sizes." That delay appears to have been adequate. Accordingly, this Treasury decision will become effective 120 days after the date of publication in the **Federal Register.** The effective date is February 20, 1991.

This effective date means that wine bottled in the 500 ml size shall not be entered into interstate commerce until February 20, 1991. However, this will not preclude an American bottler from bottling wine in the 500 ml size for storage on the premises of the bottling facility, prior to February 20, 1991. Further, any American importer may order shipments in this size and hold them in a Customs bonded warehouse until February 20, 1991. Of course, under 27 CFR 4.50, American bottlers must have certificates of label approval prior to bottling. Although certificates of label approval may be issued for 500 ml containers before February 20, 1991, such bottles shall not be removed from the bottling facility or from customs custody prior to that date. Importers and American bottlers are reminded that previously approved labels may be used on 500 ml bottles without resubmission if the only change is in the net contents.

Effect on Other Sizes

In Notice No. 699, AFT specifically requested comments on the impact of the 500 ml bottle on other authorized sizes. Few comments were received on this issue. One winery (Sutter Home) stated that they anticipated no effect on the 187 ml size. Jordan Winery indicated that 750 ml will remain the most important size, but that the 500 ml size will probably replace the 375 ml size, at least for many products. Jos. E. Seagram & Sons, however, noted that the 375 ml size is "well accepted and appreciated by consumers" and requested that neither this size nor the 187 ml size be eliminated. Accordingly, ATF has no plans at this time to consider eliminating any approved wine bottle sizes.

Other Suggestions

Some commenters included suggestions for additional regulatory changes. One proposed that the 500 ml size be allowed only for wines (such as Hungarian Tokay) that have traditionally been sold only in this size. However, this suggestion would not be fair to producers of other kinds of wine who might want to begin using the 500 ml size. Another commenter proposed that ATF allow the 500 ml size only in returnable bottles. However, ATF does not have legal authority to impose such a requirement.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 603, 604) are not applicable to this final rule, because it will not have a significant economic impact on a substantial number of small entities. The final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, ATF has determined that this final rule is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law 96–511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part

1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Steve Simon of the Revenue Programs Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

Issuance

Accordingly, 27 CFR part 4 is amended as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph A. The authority citation for part 4 continues to read as follows:

Authority: 27 U.S.C. 205.

Par. B. Section 4.37(b)(1) is revised to read as follows:

§ 4.37 Net contents.

* * * * *

(b) * * *

(1) For the metric standards of fill: 3 liters (101 fl. oz.); 1.5 liters (50.7 fl. oz.); 1 liter (33.8 fl. oz.); 750 ml (25.4 fl. oz.); 500 ml (16.9 fl. oz.); 375 ml (12.7 fl. oz.); 187 ml (6.3 fl. oz.); 100 ml (3.4 fl. oz.); and 50 ml (1.7 fl. oz.).

* * * * *

Par. C. Section 4.73(a) is revised to read as follows:

§ 4.73 Metric standards of fill.

(a) *Authorized standards of fill.* The standards of fill for wine are the following:

3 liters.
1.5 liters.
1 liter.
750 milliliters.
500 milliliters.
375 milliliters.
187 milliliters.
100 milliliters.
50 milliliters.

* * * * *

Signed: September 13, 1990.

Stephen E. Higgins,

Director.

Approved: September 28, 1990.

John P. Simpson,

Acting Assistant Secretary (Enforcement).

[FR Doc. 90-24985 Filed 10-22-90; 8:45 am]

BILLING CODE 4810-31-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2625

Restoration of Terminating and Terminated Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation ("PBGC") is hereby adding a new part 2625 to its regulations relating to certain aspects of section 4047 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Under ERISA section 4047, the PBGC has authority to restore to ongoing status plans that are being or have been terminated, in any case where PBGC determines that such action is appropriate and consistent with its duties under title IV of ERISA. When PBGC restores a plan, certain incidental legal obligations arise, including various obligations under title IV of ERISA. Title IV is silent, however, as to the interaction of section 4047 and these other provisions. This regulation describes those legal obligations, and provides procedures necessary for the orderly and effective operation of title IV with respect to a restored plan.

EFFECTIVE DATE: October 22, 1990.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202-778-8850. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

This document adds to the Pension Benefit Guaranty Corporation's regulations (29 CFR, chapter XXVI) a new part 2625 dealing with certain matters incidental to plan restoration pursuant to section 4047 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Section 4047 of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to restore a terminated pension plan whenever the PBGC determines that this action is appropriate and consistent with its duties under title IV of ERISA. In any case in which the PBGC determines that a plan that is being terminated should be restored, it is authorized under section 4047 "to cease any activities undertaken to terminate the plan, and to take whatever action is necessary and within its power to restore the plan to its status prior to the determination that the plan was to be terminated." Similarly, in the case of a plan that has been terminated, PBGC is authorized in any case in which it determines this action to be appropriate and consistent with its duties under title IV, "to take such action as may be necessary to restore the plan to its pretermination status, including, but not limited to, the transfer to the employer or a plan administrator of control of part or all of the remaining assets and liabilities of the plan."

The legislative history of section 4047 of ERISA demonstrates that Congress intended to confer broad authority on the PBGC to control the details of plan restorations. The purpose of section 4047 is explained as follows in the conference report to ERISA (H.R. Conf. Rep. No. 93-1289, 93d Cong., 2d Sess. 378-379:

Restoration of plans

Neither the House bill nor the Senate amendment had any specific provision that procedures against a plan in the termination phase might be abandoned by the corporation if the employer and plan enjoyed a favorable reversal of business trends, or if some other factor made termination no longer advisable.

Under the conference substitute, the corporation may cease any termination activities and do what it can to restore the plan to its former status. As a result, a terminated plan being operated by a trustee as a wasting trust may be restored if, during the period of its operation by the trustee, experience gains or increased funding make it sufficiently solvent. The corporation may, when appropriate, transfer to the employer or plan administrator part or all of the remaining assets and liabilities.

The United States Supreme Court recently upheld the broad authority of the PBGC to restore a pension plan in *PBGC* v. *LTV Corp.* 110 S.Ct. 2668 (1990).

The restoration of a pension plan presents unique problems with respect to the application of certain provisions of title IV of ERISA. For example, all plans covered by the PBGC insurance programs are required to pay annual premiums to PBGC, in accordance with ERISA sections 4006 and 4007. Under section 4007(a) of ERISA, PBGC premiums cease to accrue upon the appointment of a trustee for an underfunded plan being terminated under ERISA sections 4041(c) or 4042. Because a plan that is restored under section 4047 is restored to its pretermination status, upon restoration of a plan, PBGC premiums are owed for the period from the date of trusteeship through restoration (or its implementation). Under the PBGC's premium regulation (29 CFR part 2610), which prescribes the rules for determining and paying the premiums, premiums for a plan year are due and

payable within that year. Neither the statute nor the regulation addresses the application of the premium rules in the restoration context.

The PBGC's statutory obligation to pay guaranteed benefits pursuant to ERISA section 4022 arises upon the termination of an underfunded plan. Typically, PBGC itself becomes trustee of the terminated plan and takes control of the plan's assets. As a matter of agency policy established by the PBGC's Board of Directors early in the agency's history, the PBGC pays guaranteed benefits from both plan assets and PBGC's funds (premium payments and other amounts held by the PBGC in the revolving funds established under ERISA section 4005(a)). The PBGC has determined that, consistent with the provisions of title IV of ERISA, when a plan is restored it is not entitled to retain the amounts paid from PBGC's funds pursuant to its guarantee obligation. However, title IV contains no provisions addressing the repayment of these amounts.

The restoration of a pension plan also presents unique problems with respect to the application of the minimum funding standards of section 412 of the Internal Revenue Code ("IRC"). The relationship between the minimum funding requirements of section 412 and the restoration provisions of section 4047 of ERISA is one aspect of a long history of statutory interrelationship and coordination that has characterized the development of pension law in this area since the enactment of ERISA.

The plan termination insurance program administered by the PBGC for the protection of participants in single-employer defined benefit plans is one of the cornerstones of the congressional policy underlying ERISA. See H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 13. The establishment of a program of plan termination insurance is predicated on the existence of adequate minimum funding requirements to assure that employers will, in general, fund their pension obligations in a timely manner. During the legislative development of ERISA, Congress reviewed the minimum funding requirements of pre-ERISA law and found them inadequate because, *inter alia*, they did not require the sponsor of a qualified defined benefit plan to contribute sufficient amounts to amortize the principal amount of the unfunded past service liabilities of the plan. H.R. Rep. No. 93–807, 93d Cong., 2d Sess., 73–74.

Accordingly, as part of the overall reform of the pension laws in ERISA, Congress raised the minimum funding standards applicable to qualified plans and required plans to establish and maintain a funding standard account to protect plan participants and the plan termination insurance program. The charges and credits to the funding standard account are prescribed in IRC section 412(b). Additional minimum funding provisions requiring employers to make deficit reduction contributions were added with the enactment of IRC section 412(1) as part of the Omnibus Budget Reconciliation Act of 1987 ("OBRA 1987"), Public Law 100–203, 101 Stat. 1330–333. This additional funding requirement was adopted in substantial part to protect the plan termination insurance system administered by the PBGC from large claims resulting from the termination of underfunded plans. H.R. Rep. No. 100–391 (Vol. II), 100th Cong., 1st Sess., 984.

Because a restored plan was being or had been terminated and administered as a terminated plan during the time from the date of termination of the plan to the date of the restoration (or its implementation), the funding standard account will have ceased to apply to the plan beginning with the plan year subsequent to the year in which the termination occurred. See Rev. Rul. 79–237, 1979–2 C.B. 190. During the period between the dates of termination and restoration (or its implementation), Schedules B of Form 5500 will not have been completed by the plan actuary, nor will contributions have been made to the plan. When the PBGC acts to restore the plan, the funding standard account must be reestablished and thereafter the funding standard account must be maintained.

The restoration of the plan under section 4047 of ERISA has the effect of reinstating benefit accruals under the plan as of the termination date, because section 4047 provides for restoration of the plan to its pre-termination status. Because the plan will have been underfunded upon plan termination and because the plan sponsor will ordinarily not have made any contributions to the plan while it was being administered as a terminated plan, the plan is likely to be even more underfunded on restoration. This underfunding will be significantly increased if the plan has been administered as a terminated plan for an extended period of time.

Appropriate provisions for the amortization of the large unfunded liability arising, in part, as a result of the lapse of time between the termination of a plan and the resumption of contributions to it are necessary to implement the PBGC's restoration authority. This regulation was developed with new regulations issued by the Internal Revenue Service ("IRS") and the Department of the Treasury under IRC section 412. Both documents address the relationship between the funding requirements of IRC section 412 and the plan restoration provisions of ERISA section 4047. The IRS regulations create a special funding method, known as the restoration method, which adapts the underlying funding method used by the plan to the special circumstances that exist when a plan is restored. A plan that is being or has been terminated and restored must use the restoration method until the initial restoration amortization base, described below, has been fully amortized. The IRS regulations and this regulation provide parameters within which the PBGC shall establish a restoration payment schedule, under the restoration method, consistent with the orderly restoration of the plan.

Briefly, § 1.412(c)(1)–3T(b) of the IRS regulations creates a special amortization base, known as the initial restoration amortization base. This amortization base consists of the unfunded liability of the plan at the valuation for the plan year in which the initial post-restoration valuation date falls, based upon the assets and liabilities returned by the PBGC, and replaces all other amortization bases that previously existed for the plan. This initial restoration amortization base must be amortized over not more than 30 years, pursuant to the restoration payment schedule order issued by PBGC. The restoration payment schedule must provide that at the end of not more than 30 years, the entire amount of the initial restoration amortization base will have been fully amortized. Unlike the amortization bases described in IRC section 412(b), however, the charges to amortize the initial restoration amortization base need not be made in level annual amounts. However, any restoration payment schedule must satisfy certain requirements set forth in the IRS regulations.

The PBGC retains the authority to modify the restoration payment schedule at any time during the period of up to 30 years that the schedule is effective. Any modification must, however, comply with the requirements of the IRS regulations, including the requirement that the 30-year period not be extended. In addition, the PBGC must conduct a funding review of the plan at least once in each plan year and may, as a result of the funding review, amend the restoration payment schedule, subject to the requirements of the IRS regulations.

The establishment of the restoration payment schedule by the PBGC is

appropriate because the PBGC will normally have detailed knowledge of the financial condition of the plan sponsor (and its controlled group) of a restored plan and because the PBGC is directly at risk if the restored plan must be reterminated. New Part 2625 of PBGC's regulations describes generally the procedures for issuance of a restoration payment schedule order under the IRS regulations. Part 2625 also addresses certain other obligations that arise incidental to a plan restoration order by the PBGC, *i.e.*, payment of PBGC premiums, and repayment of amounts expended from PBGC's revolving funds during the period prior to the restoration, and establishes the rules for the prospective satisfaction of these obligations.

The Regulation

Section 2625.2 of this regulation deals with the restoration payment schedule. Pursuant to paragraph (b), whenever the PBGC has restored a plan, it shall issue a restoration payment schedule order establishing the schedule of payments needed to amortize the initial restoration amortization base established in the IRS regulations. Pursuant to the IRS regulations, the schedule must require payments at least annually. PBGC may, however, require more frequent payments.

Concurrent with issuance of the restoration payment schedule order, the PBGC's Executive Director will also certify to the PBGC's Board of Directors and to the IRS that PBGC has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availability of deferrals as permitted under the IRS regulations), and any other factor that the PBGC deems relevant, and, based on that review, determines that it is in the best interests of the plan's participants and beneficiaries and of the single-employer insurance program that the restored plan not be reterminated (§ 2625.2(c)).

In establishing the restoration payment schedule, the PBGC will consider such factors as: (1) The need for the plan to make an orderly transition from terminated status to ongoing status as a restored plan, (2) the need for the plan sponsor and its controlled group members to have sufficient time to fund the accrued liabilities of the plan arising from pre-restoration service, (3) the interests of plan participants and beneficiaries, (4) the financial condition of the plan, (5) the financial condition of the plan sponsor and its controlled group members, (6) changes in the law affecting the funding requirements applicable to the restored plan, (7) the length of time between the date the plan was terminated and the date of a PBGC restoration order, its implementation, or the restoration payment schedule order, (8) the grounds for the restoration, (9) the risk to the PBGC's plan termination insurance program, and (10) the pre-termination funding history of the plan.

Section 2625.3 prescribes rules for paying PBGC premiums for the period commencing with trusteeship pursuant to the plan's termination through the plan year of restoration (or its implementation). In general, the outstanding premiums shall be computed and paid in accordance with the PBGC's Payment of Premiums regulation (29 CFR part 2610) (and the forms and instructions issued pursuant thereto) as in effect for the plan years for which the premiums are outstanding (§ 2625.3(a)). Pursuant to § 2625.3(b), PBGC will notify the plan administrator of the plan years for which premiums must be paid and provide the plan administrator with the appropriate premium payment forms.

Section 2625.4 of the regulation provides the rules for repayment to the PBGC by the restored plan of amounts paid from the PBGC's revolving fund for guaranteed benefits under the plan while the plan was terminated. Pursuant to paragraph (b) of this section, PBGC shall prescribe reasonable terms and conditions for the payment of this debt. PBGC will establish payment terms thereunder that are protective of the single-employer insurance program while also furthering the goal of plan continuation.

E.O. 12291 and the Regulatory Flexibility Act

The PBGC has determined that this regulation is not a "major rule" for the purpose of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. This rule merely describes certain legal obligations that arise incidental to plan restoration under ERISA section 4047, and prescribes procedures relating thereto.

This rule provides the public with needed guidance on the PBGC's interpretation, in the context of other provisions of title IV of ERISA, of section 4047 and certain legal obligations arising incidental to plan restorations under that section. It also establishes procedures to ensure the fair and equitable application of those provisions to plans that have been restored under section 4047 in a manner that is consistent with the overall goals and purposes of title IV of ERISA. The PBGC has therefore determined that the advance notice and public procedure requirements of 5 U.S.C. 553(b) do not apply. In addition, because of the need to provide immediate guidance to the public, and because this regulation does not require any action by members of the public, the PBGC finds that good cause exists for making this rule effective immediately, 5 U.S.C. 553(d)(3).

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 2625

Employee Pension Plans, Pension Insurance and Pensions.

In consideration of the foregoing, subchapter C of chapter XXVI of title 29, Code of Federal Regulations, is hereby amended to add a new part 2625 as follows:

PART 2625—RESTORATION OF TERMINATING AND TERMINATED PLANS

Sec.

Authority: 29 U.S.C. 1302(b)(3) and 1347.

§ 2625.1 Purpose and scope.

(a) *Purpose.* Section 4047 of the Employee Retirement Income Security Act of 1974, as amended, gives the Pension Benefit Guaranty Corporation broad authority to take any necessary actions in furtherance of a plan restoration order issued pursuant to section 4047. This part (along with Treasury regulation 26 CFR 1.412(c)(1)–3T) describes certain legal obligations that arise incidental to a plan restoration under section 4047. This part also establishes procedures with respect to these obligations that are intended to facilitate the orderly transition of a restored plan from terminated (or terminating) status to ongong status, and to help ensure that the restored plan will continue to be ongoing consistent with the best interests of the plan's participants and beneficiaries and the single-employer insurance program.

(b) *Scope.* This part applies to terminated and terminating single-employer plans (except for plans terminated and terminating under ERISA section 4041(b)) with respect to which the PBGC has issued or is issuing a plan restoration order pursuant to ERISA section 4047.

§ 2625.2 Funding of restored plan.

(a) *General.* Whenever the PBGC issues or has issued a plan restoration order under ERISA section 4047, it shall issue to the plan sponsor a restoration payment schedule order in accordance with the rules of this section. PBGC, through its Executive Director, shall also issue a certification to its Board of Directors and the Internal Revenue Service, as described in paragraph (c) of this section. If more than one plan is or has been restored, the PBGC shall issue a separate restoration payment schedule order and separate certification with respect to each restored plan.

(b) *Restoration payment schedule order.* A restoration payment schedule order shall set forth a schedule of payments sufficient to amortize the initial restoration amoratization base described in paragraph (b) of 26 CFR 1.412(c)(1)–3T over a period extending no more than 30 years after the initial post-restoration valuation date, as defined in paragraph (a)(1) of 26 CFR 1.412(c)(1)–3T. The restorative payment schedule shall be consistent with the requirements of 26 CFR 1.412(c)(1)–3T and may require payments at intervals of less than one year, as determined by the PBGC. The PBGC may, in its discretion, amend the restoration payment schedule at any time, consistent with the requirements of 26 CFR 1.412(c)(1)–3T.

(c) *Certification.* The Executive Director's certification to the Board of Directors and the Internal Revenue Service pursuant to paragraph (a) of this section shall state that the PBGC has reviewed the funding of the plan, the financial condition of the plan sponsor and its controlled group members, the payments required under the restoration payment schedule (taking into account the availabililty of deferrals as permitted under paragraph (c)(4) of 26 CFR 1.412(c)(1)–3T) and any other factor that the PBGC deems relevant, and, based on that review, determines that it is in the best interests of the plan's participants and beneficiaries and the single-employer insurance program that the restored plan not be reterminated.

(d) *Periodic PBGC review.* As long as a restoration payment schedule order issued under this section is in effect, the PBGC shall review annually the funding status of the plan with respect to which the order applies. As part of this review, the PBGC, through its Executive Director, shall issue a certification in the form described in paragraph (c) of this section. As a result of its funding review, PBGC may amend the restoration payment schedule, consistent with the requirements of paragraph (c)(2) of 26 CFR 1.412(c)(1)–3T.

§ 2625.3 Payment of premiums.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, the obligation to pay PBGC premiums pursuant to ERISA section 4007 is reinstated as of the date on which the plan was trusteed under section 4042 of ERISA. Except as otherwise specifically provided in paragraphs (b) and (c) of this section, the amount of the outstanding premiums owed shall be computed and paid by the plan administrator in accordance with PBGC's Payment of Premiums regulation (29 CFR part 2610) and the forms and instructions issued pursuant thereto, as in effect for the plan years for which premiums are owed.

(b) *Notification of premiums owed.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the plan year(s) for which premiums are owed. PBGC will include with the notice the necessary premium payment forms and instructions. The notice shall prescribe the payment due dates for the outstanding premiums.

(c) *Methods for determining variable rate portion of the premium.* In general, the variable rate portion of the outstanding premiums shall be determined in accordance with the premium regulation and forms, as provided in paragraph (a) of this section, except that for any plan year for which Form 5500, Schedule B was not filed because the plan was terminated, the alternative calculation method in § 2610.23(c) may not be used.

§ 2625.4 Repayment of PBGC payments of guaranteed benefits.

(a) *General.* Upon restoration of a plan pursuant to ERISA section 4047, amounts paid by the PBGC from its single-employer insurance fund (the fund established pursuant to ERISA section 4005(a)) to pay guaranteed benefits and related expenses under the plan while it was terminated are a debt of the restored plan. The terms and conditions for payment of this debt shall be determined by the PBGC.

(b) *Repayment terms.* The PBGC shall prescribe reasonable terms and conditions for payment of the debt described in paragraph (a) of this section, including the number, amount and commencement date of the payments. In establishing the terms, PBGC will consider the cash needs of the plan, the timing and amount of contributions owed to the plan, the liquidity of plan assets, the interests of the single-employer insurance program, and any other factors PBGC deems relevant. PBGC may, in its discretion, revise any of the payment terms and conditions, upon written notice to the plan administrator in accordance with paragraph (c) of this section.

(c) *Notification to plan administrator.* Whenever the PBGC issues or has issued a plan restoration order, it shall send a written notice to the plan administrator of the restored plan advising the plan administrator of the amount owed the PBGC pursuant to paragraph (a) of this section. The notice shall also include the terms and conditions for payment of this debt, as established under paragraph (b) of this section.

Issued in Washington, DC this 18th day of October, 1990.

Elizabeth Dole,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth pursuant to a resolution of the Board of Directors authorizing its chairman to issue this final rule.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 90–25164 Filed 10–22–90; 8:45 am]

BILLING CODE 7708–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6892]

List of Communities Eligible for the Sale of Flood Insurance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of

property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community or from the National Flood Insurance Program (NFIP) at:

Post Office Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT:

Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, SW., Room 417, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communties on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance and floodplains.

1. The authority citation for part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Eligibiles—Emergency Program			
Texas:			
Polk County, unincorporated areas	480526	Sept. 5, 1990, Emerg.	12–13–77
Tennessee:			
Cannon County, unincorporated areas	470368	.....do	1–5–79
Oklahoma:			
McClain County, unincorporated areas	400538	Sept. 10, 1990	Do.
Iowa:			
Farnhamville, city of Calhoun County	190730	Sept. 18, 1990, Emerg.	3–26–76
Latimer, city of Franklin County	190389	.....do	3–26–76
Arkansas:			
Faulkner County, unincorporated area	050431	Sept. 24, 1990, Emerg.	6–7–77
Texas:			
Cotton Shores, city of Burnet County	481614	.....do	Do.
Georgia:			
Mitchell County, unincorporated areas	130438	Sept. 28, 1990, Emerg.	1–17–76
Oklahoma			
Lincoln County, unincorporated areas	400457	.....do	Do.
New Eligible—Regular Program			
Idaho:			
Valley County, unincorporated areas	160220	Sept. 5, 1990	9–5–90
Reinstatements—Regular Program			
Maine:			
Temple, town of, Franklin County	230062	Aug. 5, 1975, Emerg.; Apr. 1, 1987, Reg.; June 1, 1987, Susp.; Sept. 10, 1990, Rein.	4–1–87
Vermont:			
Starksboro, town of, Addison County	500172	July 25, 1975, Emerg.; Dec. 4, 1985, Reg.; June 18, 1990, Susp.; Sept. 6, 1990, Rein.	12–4–85
North Dakota:			
Velva, township of, McHenry County	380310	Mar. 31, 1976, Emerg.; Sept. 18, 1987, Reg.; Sept. 18, 1987, Susp.; Sept. 10, 1990, Rein.	9–18–87
Pennsylvania:			
Mount Carmel, township of, Northumberland County	421942	Oct. 24, 1974, Emerg.; May 3, 1990, Reg.; May 3, 1990, Susp.; Sept. 10, 1990, Rein.	5–3–90
New York:			
Spafford, town of, Onondaga County	360594	Aug. 19, 1974, Emerg.; Apr. 30, 1986, Reg.; Apr. 30, 1986, Susp.; Sept. 10, 1990, Rein.	4–30–86

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
New Hampshire:			
Haverhill, town of, Grafton County	330057	Apr. 5, 1976, Emerg.; May 3, 1990, Reg.; May 3, 1990, Susp.; Sept. 11, 1990, Rein.	5-3-90
West Virginia:			
Richwood,[1] city of, Nicholas County	540147	Nov. 29, 1974, Emerg.; Aug. 15, 1990, Susp.; Sept. 13, 1990, Rein.	5-7-76
Triadelphia, town of, Ohio County	540150	July 16, 1975, Emerg.; Jan. 18, 1984, Reg.; Aug. 15, 1990, Susp.; Sept. 13, 1990, Rein.	1-18-84
Pennsylvania:			
Smithton, borough of, Westmoreland County	420899	May 4, 1976, Emerg.; Aug. 15, 1990, Reg.; Aug. 15, 1990, Susp.; Sept. 13, 1990, Rein.	8-15-90
Beech Creek, borough of, Clinton County	420320	June 3, 1974, Emerg.; Aug. 2, 1990, Reg.; Aug. 2, 1990, Susp.; Sept. 13, 1990, Rein.	8-2-90
Texas:			
Colorado County, unincorporated areas	480144	Feb. 29, 1980, Emerg.; Aug. 16, 1988, Susp.; Sept. 19, 1990, Rein.; Sept. 19, 1990, Regular Program.	1-3-90
Louisiana:			
Caddo parish, unincorporated areas	220361	Nov. 9, 1979, Emerg.; Sept. 5, 1990, Reg.; Sept. 5, 1990, Susp.; Sept. 21, 1990, Rein.	9-5-90
Ohio:			
Miamisburg, city of, Montgomery County	390412	Aug. 1, 1974, Emerg.; June 15, 1981, Reg.; Apr. 16, 1990, Susp.; Sept. 21, 1990, Rein.	1-14-83
Wisconsin:			
Polk County, unincorporated areas	550577	Apr. 22, 1975, Emerg.; June 4, 1990, Reg.; June 4, 1990, Susp.; Sept. 21, 1990, Rein.	6-4-90
Pennsylvania:			
Picture Rocks, borough of, Lycoming County	420654	Mar. 21, 1975, Emerg.; Sept. 5, 1990, Reg.; Sept. 5, 1990, Susp.; Sept. 24, 1990, Rein.	9-5-90
Applewold, borough of, Armstrong County	420093	Mar. 11, 1975, Emerg.; Sept. 18, 1987, Reg.; Sept. 18, 1987, Susp.; Sept. 24, 1990, Rein.	9-18-87
Washington, township of, Wyoming County	422207	Aug. 27, 1979, Emerg.; July 3, 1990, Reg.; July 3, 1990, Susp.; Sept. 24, 1990, Rein.	7-3-90
Wells, township of, Bradford County	421121	Oct. 10, 1974, Emerg.; Sept. 5, 1990, Reg.; Sept. 5, 1990, Susp.; Sept. 24, 1990, Rein.	9-5-90
Vermont:			
Dover,[2] town of, Windham County	500127	July 21, 1976, Emerg.; Sept. 30, 1981, Susp.; Sept. 24, 1990, Rein.	8-2-74
Pennsylvania:			
Sligo, borough of, Clarion County	421506	Mar. 25, 1976, Emerg.; Aug. 15, 1990, Reg.; Aug. 15, 1990, Susp.; Sept. 26, 1990, Rein.	8-15-90
Region I—Regular Conversions			
Connecticut:			
Waterford, town of, New London County	090107	Sept. 5, 1990, Suspension withdrawn	9-5-90
Region II			
New York:			
Pittstown, town of, Rensselaer County	361166	....do	9-5-90
Region III			
Pennsylvania:			
Burlington, borough of, Bradford County	420168	....do	9-5-90
South Philipsburg, borough of, Centre County	420271	....do	9-5-90
West Burlington, township of, Bradford County	421122	....do	9-5-90
Virginia:			
Charles City County, unincorporated areas	510198	....do	9-5-90
King and Queen County, unincorporated areas	510082	....do	9-5-90
Region V			
Illinois			
Columbia, city of, Monroe County	170510	....do	9-5-90
Wisconsin:			
Osseo, city of, Trempealeau County	550445	....do	9-5-90
Region VII			
Missouri:			
New Madrid County, unincorporated area	290849	....do	9-5-90
Region IX			
California:			
Calaveras County, unincorporated area	060633	....do	9-5-90
Tuolumne County, unincorporated area	060411	....do	9-5-90
Santa Barbara County, unincorporated area	060331	....do	9-5-90
Shasta County, unincorporated area	060358	....do	9-5-90
Region X			
Oregon:			
Lakeview, city of, Lake County	410116	....do	9-5-90
Washington:			
Everett, city of, Snohomish County	530164	....do	9-5-90

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Region III			
Pennsylvania:			
Oley, township of, Berks County	420965	Sept. 14, 1990, Suspension withdrawn	9-14-90
Region V			
Wisconsin:			
Sawyer County, unincorporated areas	550591	do	9-14-90
Region VI			
New Mexico:			
Luna County, unincorporated areas	350139	do	9-14-90
Region VII			
Kansas:			
Mulvane, city of, Sumner and Sedgwick Counties	200326	do	9-14-90
Region X			
Idaho:			
Bancroft, city of, Caribou County	160040	do	9-14-90
Canyon County, unincorporated areas	160208	do	9-14-90
Washington:			
Stevens County, unincorporated areas	530185	do	9-14-90
Region V—Minimal Conversions			
Michigan:			
Rolland, township of, Isabella County	260422	do	9-14-90
Region VII			
Nebraska:			
Washington, village of, Washington and Douglas Counties	315496	do	9-14-90
Region II			
New York:			
Hancock, town of, Delaware County	360201	Sept. 28, 1990, Suspension withdrawn	9-28-90
Hancock, village of, Delaware County	360202	do	9-28-90
Region III			
Pennsylvania:			
Elkland, borough of, Tioga County	420818	do	9-28-90
Region IV			
Kentucky:			
Madison County, unincorporated areas	210342	do	9-28-90
North Carolina:			
Avery County, unincorporated areas	370010	do	9-28-90
Creedmoor, city of, Granville County	370107	do	9-28-90
Oxford, city of, Granville County	370108	do	9-28-90
Region V			
Indiana:			
Allen County, unincorporated areas	180302	do	9-28-90
Ft. Wayne, city of, Allen County	180003	do	9-28-90
Huntertown, town of, Allen County	180005	do	9-28-90
New Haven, city of, Allen County	180004	do	9-28-90
Michigan:			
Holland, city of, Allegan and Ottawa Counties	260006	do	9-28-90
Holland, township of, Ottawa County	260492	do	9-28-90
Ohio:			
Lowellville, village of, Mahoning County	390620	do	9-28-90
Wisconsin:			
Cornell, city of, Chippewa County	550045	do	9-28-90
Langlade County, unincorporated areas	550576	do	9-28-90
Region VII			
Kansas:			
Allen County, unincorporated areas	200568	do	9-28-90
Hutchinson, city of, Reno County	200283	do	9-28-90
Iola, city of, Allen County	200003	do	9-28-90
Liberal, city of, Seward County	200330	do	9-28-90
Reno County, unincorporated areas	200567	do	9-28-90
South Hutchinson, city of, Reno County	200530	do	9-28-90
Region VIII			
Colorado:			
Rangely, town of, Rio Blanco County	080152	do	9-28-90
Region IX			
Arizona:			
Apache County, unincorporated areas	040001	do	9-28-90
Flagstaff, city of, Coconino County	040020	do	9-28-90
Springerville, town of, Apache County	040011	do	9-28-90
California:			
Kern County, unincorporated areas	060075	do	9-28-90
Sebastopol, city of, Sonoma County	060382	do	9-28-90

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date
Sutter Creek, city of, Amador County	060458	do	9-28-90
Ventura County, unincorporated areas	060413	do	9-28-90
Region X			
Oregon:			
Gresham, city of, Multnomah County	410181	do	9-28-90
Washington:			
Wahkiakum County, unincorporated areas	530193	do	9-28-90
Whatcom County, unincorporated areas	530198	do	9-28-90

[1] Emergency Disaster Areas.
[2] Emergency Program Reinstatement.
Code for reading fourth column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension, Rein.—Reinstatement.

Issued: October 16, 1990.

C. M. "Bud" Schauerte,

Administrator, Federal Insurance Administration.

[FR Doc. 90-25018 Filed 10-22-90; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-417; RM-6865]

Radio Broadcasting Services; Century, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Ziffle Broadcasting Company, Inc., substitutes Channel 286C3 for Channel 286A at Century, Florida, and modifies its license for Station WKGT(FM) to specify operation on the higher powered channel. *See* 54 FR 40895, October 4, 1989. Channel 286C3 can be allotted to Century in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 7.0 kilometers (4.4 miles) north. The coordinates for Channel 286C3 at Century are North Latitude 31-02-03 and West Longitude 87-16-58. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89-417, adopted September 27, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 286A and adding Channel 286C3 at Century.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25050 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-306; RM-7189]

Radio Broadcasting Services; Watertown, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Louis D. Bolton, II, substitutes Channel 271C3 for Channel 271A at Watertown, Florida, and modifies the construction permit of Station WQLC(FM) to specify operation on the higher class channel. *See* 55 FR 25853, June 25, 1990. Channel 271C3 can be allotted to Watertown in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 kilometers (5.5 miles) northwest, in order to avoid a short-spacing to Station WTRS-FM, Channel 272C2, Dunnellon, Florida. The coordinates for this allotment are North Latitude 30-13-00 and West Longitude 82-41-00. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-306, adopted September 27, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Florida, is amended by removing Channel 271A and adding Channel 271C3 at Watertown.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-25047 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 90-212; RM-7151]

Radio Broadcasting Services; Americus, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 234C3 for Channel 232A at Americus, Georgia, and modifies the license of Station WDEC(FM) to specify operation on the higher class channel, at the request of Guest-Mattox Broadcasting, Inc. *See* 55 FR 17770, April 27, 1990. Channel 234C3 can be allotted to Americus in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.5 kilometers (7.1 miles) southwest, in order to avoid a short-spacing to Station WBYZ(FM), Channel 233C, Baxley, Georgia. The coordinates for this allotment are North Latitude 31–59–10 and West Longitude 84–18–06. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–212, adopted September 25, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 232A and adding Channel 234C3 at Americus.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25048 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–584; RM–7023]

Radio Broadcasting Services; Kekaha, HI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document, at the request of Algoma Broadcasting Co., substitutes Channel 277C1 for Channel 277A at Kekaha, Hawaii, and modifies the license of Station 277C1 for Channel 277A at Kekaha, Hawaii, and modifies the license of Station KAUI(FM) to specify operation on the higher class channel. See, 54 FR 00323, January 4, 1990. Channel 277C1 can be allotted to Kekaha in compliance with the Commission's minimum distance separation requirements at the construction permit site. The coordinates are North Latitude 21–58–16 and West Longitude 159–42–46. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 3, 1990.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–584, adopted September 25, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Hawaii, is amended by removing Channel 277A and adding Channel 277C1 at Kekaha.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25049 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 89–577; RM–7093]

Radio Broadcasting Services; Hutchinson, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 246C3 for Channel 246A at Hutchinson, Kansas, in response to a petition filed by KWHK Broadcasting, Inc. We shall also modify the construction permit (BPH–881116MF) for Channel 246A to specify operation on Channel 246C3. The coordinates for Channel 246C3 are 38–02–39 and 98–00–56. *See* 55 FR 324, January 4, 1990.

EFFECTIVE DATE: November 30, 1990.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 89–577, adopted September 25, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 246A and adding Channel 246C3 at Hutchinson.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24916 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 900656-0196]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) closes the commercial fishery in the exclusive economic zone (EEZ) for king mackerel from the western zone of the Gulf migratory group. The Secretary has determined that the commercial quota for Gulf group king mackerel from the western zone was reached on October 17, 1990. This closure is necessary to protect the overfished Gulf king mackerel resource.

EFFECTIVE DATE: Closure is effective on October 18, 1990, through June 30, 1991.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813-893-3722.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic, as amended, was developed by the South Atlantic and Gulf of Mexico Fishery Management Councils (Councils) under authority of the Magnuson Fishery Conservation and Management Act and is implemented by regulations at 50 CFR part 642. Catch limits recommended by the Councils for the Gulf of Mexico migratory group of king mackerel for the current fishing year (July 1, 1990, through June 30, 1991) set the commercial allocation at 1.36 million pounds divided into quotas of 0.94 million pounds for the eastern zone and 0.42 million pounds for the western zone, the same as for the previous fishing year. The boundary between the eastern and western zones is a line directly south from the Florida-Alabama boundary (87°31'06" W. longitude) to the outer limit of the EEZ.

Under § 642.22(a), the Secretary is required to close any segment of the king mackerel commercial fishery when its allocation or quota has been reached, or is projected to be reached, by publishing a notice in the **Federal Register**. The Secretary has determined that the commercial quota of 0.42 million pounds for the western zone of the Gulf migratory group of king mackerel was reached on October 17, 1990. Hence, the commercial fishery for Gulf group king mackerel from the western zone is closed effective October 18, 1990, through June 30, 1991, the end of the fishing year.

Except for a person aboard a charter vessel, during the closure, no person aboard a vessel permitted to fish under a commercial allocation may fish for, retain, or have in possession in the EEZ king mackerel from the western zone. A person aboard a charter vessel may continue to fish for king mackerel in the western zone under the bag limit set forth in § 642.28(a)(1), provided the vessel is under charter and the vessel has an annual charter vessel permit issued under § 642.4(a)(3). A charter vessel with a permit to fish on a commercial allocation is under charter when it carries a passenger who fishes for a fee or when there are more than three persons aboard, including operator and crew. During the closure, king mackerel from the western zone taken in the EEZ, including those harvested under the bag limit, may not be purchased, bartered, traded, or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed, and bartered, traded, or sold prior to the closure and held in cold storage by a dealer or processor.

Other Matters

This action is required by 50 CFR 642.22(a) and complies with E.O. 12291.

Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 17, 1990.

Richard H. Schaefer,

Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-24934 Filed 10-17-90; 3:08 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-NM-188-AD]

Airworthiness Directives; Boeing Model 707, 727, and 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 707, 727, and 737-200 series airplanes and to all Boeing Model 737-300, 737-400, and 737-500 series airplanes, which would require inspection; repair, if necessary; and modification of the crew call horn electrical circuits. This proposal is prompted by reports of overheated printed circuit card assemblies caused by electrical short circuit-type failures in the crew call horn. This condition, if not corrected, could result in damage to adjacent circuitry, release of smoke into the airplane, and possible fire.

DATES: Comments must be received no later than December 10, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-188-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Slotte, Seattle Aircraft Certification Office, Systems and Equipment Branch, ANM-130S; telephone (206) 227-2797. Mailing address: FAA, Northwest Mountain Region, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-188-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

All Boeing Model 737-300, 737-400 and 737-500 series airplanes and certain Model 707, 727 and 737-200 series airplanes contain a warning system which alerts the ground crew, via sounding of the crew call horn, when the Inertial Reference System (IRS) circuitry or Inertial Navigation System (INS) on older models switches to backup battery power or loses equipment cooling. This circuit is tied into the "air/ground relay" and is operational only on the ground.

Since November 1989, there have been 11 reported incidents of heat damaged crew warning system printed circuit card assemblies (PCA) associated with the IRS. The damage was caused by electrical short circuit-type failures in the crew call horn. These short circuit failures caused excessive current to flow through the horn's drive circuitry, which is located on a PCA contained within the Flight Instrument Accessory Unit (FIAU). The current level exceeded the current rating of isolation diodes used in the circuit. These diodes overheated and caused destruction of the PCA on which they were mounted. Although the 11 reported incidents all involved Model 737's, similar circuitry on Boeing Model 707 and 727 series airplanes equipped with IRS/INS could result in this same type of failure on those airplane models.

This condition, if not corrected, could result in damage to adjacent circuitry, release of smoke into the airplane, and possible fire.

Since this condition is likely to exist or develop on other airplanes of these same type designs, an AD is proposed which would require the installation of a 2 ampere thermal circuit breaker electrically located between the IRS/INS crew call horn drive circuitry and the crew call horn in accordance with an FAA-approved modification. This AD would also require inspection for damaged PCA's or other circuitry contained within the FIAU, Integrated Flight System Accessory Unit (IFSAU), and INS Battery Monitor Module, depending on airplane model, and replacement of the damaged circuitry, if necessary.

There are approximately 28 Model 707, 50 Model 727, 9 Model 737-200, 630 Model 737-300, 122 Model 737-400, and 18 Model 737-500 series airplanes of the affected design in the worldwide fleet. It is estimated that no Model 707, 13 Model 727, 2 Model 737-200, 387 Model 737-300, 46 Model 737-400, and 6 Model 737-500 series airplanes of U.S. registry would be affected by this AD (a total of 454 airplanes). It would take approximately 5 manhours per airplane to accomplish the required actions, and the average labor cost would be $40 per manhour. The cost of the required parts is estimated to be $50 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $113,500.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive

Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised).

Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Boeing: Applies to all Model 737-300, 737-400, and 737-500 series airplanes, prior to line position 2000, certificated in any category.

Also applies to Model 707 series airplanes with the following serial numbers, certificated in any category: 20474, 20669, 20830, 20831, 20832, 20833, 20834, 20835, 21081, 21092, 21103, 21104, 21123, 21124, 21125, 21126, 21127, 21128, 21129, 21228, 21261, 21334, 21367, 21368, 21396, 21428, 21475, 21956.

Also applies to Model 727 series airplanes with the following serial numbers, certificated in any category: 20533, 20932, 20933, 20934, 20935, 20936, 20937, 20938, 20939, 20940, 20941, 20942, 21040, 21080, 21091, 21100, 21101, 21102, 21105, 21106, 21107, 21108, 21229, 21230, 21347, 21348, 21349, 21426, 21427, 21458, 21459, 21460, 21595, 21636, 21844, 21845, 21846, 21847, 21945, 21946, 21947, 21948, 22268, 22359, 22360, 22361, 22362, 22763, 22968, 23052.

Also applies to Model 737-200 series airplanes with the following serial numbers, certificated in any category: 21667, 21613, 21957, 22431, 22620, 22628, 22777, 22778, 22779.

Compliance required within the next 180 days after the effective date of this AD, unless previously accomplished.

To prevent damage to the circuits contained within the Flight Instrument Accessory Unit, Integrated Flight Systems Accessory Unit, or Inertial Navigation System Battery Monitor Module, and to surrounding equipment, accomplish the following:

A. For Model 707 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 69-66243-11) contained within the Flight Instrument Accessory Unit or contained in the Inertial Navigation System Battery Monitor Module (part number 65-38292-192), as applicable, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Flight Instrument Accessory Unit or Inertial Navigation System Battery Monitor Module as applicable, for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

B. For Model 727 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 69-66243-11) contained within the Flight Instrument Accessory Unit, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Flight Instrument Accessory Unit for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

C. For Model 737-200, 737-300, and 737-400 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 69-66243-11) contained within the Flight Instrument Accessory Unit, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Flight Instrument Accessory Unit for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

D. For Model 737-500 series airplanes:

1. Install a modification to add a 2 ampere thermal circuit breaker electrically located between the crew call horn drive circuitry, located on printed circuit card assembly (part number 69-66243-11) contained within the Integrated Flight Systems Accessory Unit, and the crew call horn. The modification must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate.

2. Visually inspect the internal circuitry of the Integrated Flight Systems Accessory Unit for any heat damage. Any component or circuit found to be damaged must be replaced or repaired prior to further flight.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Seattle ACO.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Renton, Washington, on October 9, 1990.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-24994 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 90-CE-34-AD]

Airworthiness Directives; Cessna Models T310P, T310Q, 320D, 320E, and 320F Airplanes and Models 401, 401A, 4010, 402, 402A, and 4020 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), which is applicable to certain Cessna 300 and 400 series airplanes and will supersede AD 70-03-04 R1 that currently requires repetitive inspections of the turbocharger turbine stainless steel heat shields. This action would require installation of the turbocharger turbine stainless steel heat shields as terminating action for the repetitive inspections on the 400 series airplanes affected by this AD. The repetitive inspections are still required for the 300 series airplanes, but may be terminated if the replacement action is performed. The FAA's policy on aging commuter class aircraft is to terminate repetitive short interval inspections when improved parts or modifications are available. This action will assure the airworthiness of these airplanes.

DATES: Comments must be received on or before December 12, 1990.

ADDRESSES: Cessna Multi-Engine Service Letter ME72-4, dated March 24, 1972, applicable to this AD, may be obtained from Cessna Aircraft Company, Customer Service, P.O. Box 7704, Wichita, Kansas 67277. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-CE-34-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location

between 8 am. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Aerospace Engineer, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 946–4427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–34–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Recently, failures involving large transport category airplanes have caused the FAA to reexamine the airworthiness issues related to aging commuter-class airplanes. The continued airworthiness of airplanes normally can be maintained by proper inspection, maintenance, and when necessary, by parts replacement.

The FAA has determined that long-term continued operational safety will be better assured by design changes that remove the source of the problem rather than by repetitive inspection or special operating procedures. Long-term special operating procedures may not provide the degree of safety assurance necessary to maintain operational airworthiness. This determination, along with a better understanding of the human factors associated with numerous continual special procedures, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements.

At an April 1989 public conference, the General Aviation Manufacturers Association (GAMA) and the Regional Airline Association (BAA) recommended 23 separate industry and government actions intended to resolve the aging commuter class airplane issue. Recommendation No. 3 stated: "The FAA should take the lead, working closely with industry, to review existing ADs on all airplanes used in regional air carrier service to determine if repetitive inspections need to be replaced by terminating actions."

In February 1990, the FAA conducted a review of the existing ADs, applicable to Cessna 402 Series airplanes, and identified AD 70–03–04 R1 Amendment 39–5564 (52 FR 5436, February 23, 1987), as one that should be revised to require the installation of an improved part. AD 70–03–04 R1 requires repetitive inspections of the turbocharger turbine housing for cracks, bulging or burned areas on those airplanes equipped with a turbocharger turbine insulation blanket.

Subsequent to the issuance of this AD, Cessna developed turbocharger turbine stainless steel heat shields as an improved method of shielding the turbine. These shields improved the heat dissipation of the turbocharger and thereby increased the turbine housing life. Cessna Multi-Engine Service Letter ME72–4, dated March 24, 1972, sets forth this part replacement.

Since Cessna Multi-Engine Service Letter ME72–4, dated March 24, 1972, presents an available design change where the installation would terminate the repetitive inspections, the FAA is proposing an AD that would require modification on the affected 400 series commuter class airplanes in accordance with this service letter and would supersede AD 70–03–04 R1.

For the purposes of this AD, the 401 and 402 series airplanes are considered commuter class and require a part replacement. The 310 and 320 series airplanes still require repetitive inspections; however if the heat shields are replaced in accordance with Cessna Multi-Engine Service Letter ME72–4, then the repetitive inspections may be terminated.

The compliance time for the proposed modification in paragraph (b) of this proposed AD is 12 months after the effective date. The FAA has determined that a calendar time for compliance is the most desirable method because yearly operational times vary greatly throughout the fleet. According to FAA data, yearly operational times varied from a low of approximately 64 hours time-in-service (TIS) to a high of approximately 2,824 hours TIS.

In light of this, the FAA has determined that using a compliance time based upon hours of TIS is unrealistic from a safety standpoint. Therefore, to maintain continuity and avoid inadvertent grounding of the affected airplanes, compliance based upon calendar time is used.

The FAA has determined there may be as many as 826 of the 400 series airplanes and 816 of the 300 series airplanes affected by the proposed AD. Some of the airplanes affected by the proposed AD have already incorporated the proposed modification, but the FAA does not have a ready means of determining how many have been modified. Accordingly, the following cost estimates are based on the modification of the total fleet.

The cost of installing the turbocharger turbine stainless steel heat shields is estimated to be $1,740 per airplane and the total fleet cost is estimated to be $1,437,240. It would be necessary for a small business entity to own more than two of the affected airplanes to incur a significant cost of compliance with this proposal. Few (less than 33 percent) small business entities affected by the proposal own more than two of the affected airplanes. Therefore, the cost of compliance is so small that the expense of compliance will not have a significant impact on the small business entities operating these airplanes.

The repetitive inspections required on the 300 series airplanes cost approximately $120 per airplane and the total fleet cost is approximately $97,920. Few, if any, small business entities own enough of these airplanes to incur a significant cost impact.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if

promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Aircraft, Air transportation, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449; January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new AD:

Cessna: Docket No. 90–CE–34–AD.

Applicability: The following 300 and 400 series airplanes.

Model	Serial No.
T310P	T310P0001 thru T310P0240
T310Q	T310Q0001 thru T310Q0291
320D	320D0001 thru 320D0130
320E	320E0001 thru 320E0110
320F	320F0001 thru 320F0045
401	4010001 thru 4010322
401A	401A0001 thru 401A0132
401B	40100001 thru 401B0121
402	4020001 thru 4020322
402A	402A0001 thru 402A0129
402B	40200001 thru 402B0122

Compliance: Required as indicated after the effective date of this AD on those airplanes that have not incorporated Cessna Multi-Engine Service Letter ME72–4, dated March 24, 1972.

To detect incipient failure of turbosupercharger turbine housings installed in the above airplanes, accomplish the following:

(a) Within the next 100 hours time-in-service (TIS), unless already accomplished within the last 100 hours TIS, and thereafter at intervals not to exceed 100 hours TIS, accomplish the following:

(1) Remove the engine top cowling and the turbocharger turbine insulation blanket and visually inspect the complete surface of the turbine housing of the Teledyne Continental Model (TCM) turbocharger assembly Part Number (P/N) 632729 (Airesearch Industrial Division (AID) P/N 406610) for pitting, scaling, cracks, or bulging areas. Remove the turbocharger insulation blanket in accordance with applicable Cessna Service Manuals.

(2) If pitting, scaling, cracks, or bulging areas are found during the inspection required by paragraph (a) (1) of this AD, prior to further flight replace the defective part with an airworthy part.

(3) If replacement of the blanket is with the stainless steel heat shields in accordance with Cessna Multi-Engine Service Letter ME72–4, dated March 24, 1972, the repetitive inspections may be terminated.

(b) For the 401 and 402 series airplanes, accomplish the following installation within the next 12 calendar months after the effective date of this AD, unless already accomplished:

(1) Install a turbocharger turbine stainless steel heat shield in accordance with Cessna Multi-Engine Service Letter ME72–4, dated March 24, 1972.

(2) The repetitive inspections required in paragraph (a) (1) of this AD may be terminated after the installation required in paragraph (b) (1) of this AD.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft certification Office, room 100, 1801 Airport Road, Wichita, Kansas 67209.

NOTE: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the document referred to herein upon request to the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; or may examine this document at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This Amendment supersedes AD 72–14–04 R1, Amendment 39–5564.

Issued in Kansas City, Missouri, on October 10, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–24992 Filed 10–22–90; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 90–CE–35–AD]

Airworthiness Directives; Cessna 310, T310, 320, 401, 402, 411, and 421 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), which is applicable to certain Cessna 300 and 400 series airplanes and will supersede AD 72–14–08 R1 that currently requires repetitive inspections on the fuel and oil flexible hose lines. This action would require installation of improved fuel and oil flexible hose assemblies in the engine compartment as terminating action for the repetitive inspections on the 401, 402, and 421 series airplanes. The repetitive inspections on the 310, T310, 320, and 411 series airplanes would still be required, but may be terminated if the replacement action is performed. The FAA's policy on aging commuter class aircraft is to terminate repetitive short interval inspections when improved parts or modifications are available. This action would assure the airworthiness of these airplanes.

DATES: Comments must be received on or before December 12, 1990.

ADDRESSES: Cessna Service Information Letters ME68–23, dated November 1, 1968, ME81–17, dated July 10, 1981, and ME81–17, Revision 1, dated November 5, 1982, applicable to this AD, may be obtained from the Cessna Aircraft Company, Customer Service, P.O. Box 7704, Wichita, Kansas 67277. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–35–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles D. Riddle, Aerospace Engineer, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 946–4427.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may

be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report, summarizing each FAA-public contact concerned with the substance of this proposal, will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90–CE–35–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

Recently, structural failures involving large transport category airplanes have caused the FAA to reexamine the airworthiness issues related to aging commuter class airplanes. The continued airworthiness of airplanes normally can be maintained by proper inspection, maintenance, and when necessary, by parts replacement.

The FAA has determined that long-term continued operational safety will be better assured by design changes that remove the source of the problem rather than by repetitive inspection or special operating procedures. Long-term special operating procedures may not provide the degree of safety assurance necessary to maintain operational airworthiness. This determination, along with a better understanding of the human factors associated with numerous continual special procedures, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements.

At an April 1989 public conference, the General Aviation Manufacturers Association (GAMA) and the Regional Airline Association (RAA) recommended 23 separate industry and government actions intended to resolve the aging commuter class airplane issue. Recommendation No. 3 stated: "The FAA should take the lead, working closely with industry, to review existing ADs on all airplanes used in regional air carrier service to determine if repetitive inspections need to be replaced by terminating actions."

In February 1990, the FAA conducted a review of the existing ADs, applicable to Cessna 402 Series airplanes, and identified AD 72–14–08 R1, Amendment 39–1184 (37 FR 13614, July 12, 1972), as one that should be revised to require the installation of an improved part. AD 72–14–08 R1 requires repetitive inspections of the flexible fuel and oil lines in the engine compartment for evidence of leakage and deterioration for the 300 and 400 series airplanes that had not incorporated improved hoses in accordance with Cessna Service Information Letters (SIL) ME81–17, dated July 10, 1981, and ME81–17, Revision 1, dated November 5, 1982.

Therefore, since Cessna SIL ME81–17 and ME81–17, Revision 1present an available design change for these airplanes where the installation would terminate the repetitive inspections, the FAA is proposing an AD that would require modification on the affected commuter class airplanes in accordance with these Service Information Letters and would supersede AD 72–14–08 R1.

For purposes of this AD, the 401, 402, and 421 series airplanes are considered commuter class and would require a mandatory part replacement. The 310, T310, 320 and 411 series airplanes still require repetitive inspections; however, if compliance is made in accordance to Cessna SIL ME81–17 and ME81–17, Revision 1, the repetitive inspections may be terminated.

The compliance time for the proposed modification in paragraph (b) of this AD is 12 months after the effective date. The FAA has determined that a calendar time for compliance is the most desirable method because yearly operational times vary greatly throughout the fleet. According to FAA data, yearly operational times varied from a low of approximately 64 hours time-in-service (TIS) to a high of approximately 2,824 hours TIS.

In light of this, the FAA has determined that using a compliance time based upon hours of TIS is unrealistic from a safety standpoint. Therefore, to maintain continuity and avoid inadvertent grounding of the affected airplanes, compliance based upon calendar time is proposed.

The FAA has determined there may be as many as 2,617 of the 401, 402, and 421 series airplanes and 5,023 of the 310, T310, 320, and 411 series airplanes affected by the proposed AD. Some of the affected airplanes have already incorporated the proposed modification, but the FAA does not have a ready means of determining how many airplanes have been so modified. Accordingly, the following cost estimates are based on the modification of the total fleet.

The cost of installing the improved hose assemblies is estimated to be $3,008 per airplane for the 401 and 402 Series, and $3,143 per airplane for the 421 Series airplanes. The total fleet cost is estimated to be $8,014,631. It would be necessary for a small business entity to own more than one of the affected airplanes to incur a significant cost of compliance with this proposal. Few (less than 33 percent) small business entities affected by the proposal own more than one of the affected airplanes. Therefore, the cost of compliance is so small that the expense of compliance will not have a significant impact on the small entities operating these airplanes.

The inspections required on the 310, T310, 320, and 411 series airplanes are estimated to cost $80 per airplane and the total fleet cost is approximately $401,840. Few, if any, small business entities own enough of these airplanes to incur a significant cost impact.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESSES**".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. Section 39.13 is amended by adding the following new AD:

Cessna: Docket No. 90–CE–3 5–AD.

Applicability: The following 300 and 400 series airplanes:

Model	Serial Number
310, 310B, 310C, 310D.	35000 thru 39299
310F	310–0001 thru 310–0156
310G thru 310Q	310G0001 thru 310Q1160
310A (U–3A)	38001 thru 38160
310E (U–3B)	310M0001 thru 310M0036
T310P, T310Q	310P0001 thru 310Q1160
320	320–0001 thru 320–0110
320A thru 320F	320A0001 thru 320F0045
401	401–0001 thru 401–0322
401A, 401B	401A0001 thru 401B0221
402	402–0001 thru 402–0322
402A, 402B	402A0001 thru 402B1384
411	411–0001 thru 411–0250
411A	411A0251 thru 411A0300
421	421–0001 thru 421–0200
421A, 421B	421A0001 thru 421B0970

Compliance: Required as indicated after the effective date of this AD on those airplanes that have not incorporated Cessna Service Information Letters ME81–17, dated July 10, 1981 and ME81–17, Revision 1, dated November 5, 1982.

To determine the condition of flammable fluid-carrying hose assemblies in the engine compartment, accomplish the following:

(a) Within the next 60 hours time-in-service (TIS), unless already accomplished within the last 60 hours TIS, and thereafter at intervals not to exceed 60 hours TIS, accomplish the following:

(1) Visually inspect flexible fuel lines as follows:

(i) Pressurize the fuel lines with the boost pump momentarily operating in the prime position. When accomplishing this test, the mixture control should be in the idle cutoff position. While under pressure, examine all hose exteriors in the engine compartment for evidence of leakage such as wetness and fuel stains.

Note 1: After pressure testing fuel hoses, allow sufficient time for excess fuel to drain overboard from the engine manifold before attempting an engine start.

(ii) Examine externally all hoses in the engine compartment for evidence of deterioration or damage such as cracks, cuts, bulges, discoloration, hardness, chafing and excessive wear.

(2) Visually inspect flexible oil lines as follows:

(i) Examine all hose exteriors in the engine compartment for evidence of leakage.

(ii) Examine externally all hoses in the engine compartment for evidence of deterioration or damage such as cracks, cuts, bulges, discoloration, hardness, chafing and excessive wear.

(3) If, as a result of the inspections required by paragraphs (a)(1) or (a)(2) of this AD, leakage or other evidence of deteriorated or damaged hose assemblies is found, prior to further flight replace with an approved serviceable hose assembly.

(4) If replacement of the fuel and oil hose is with an approved hose assembly in accordance with Cessna Service Information Letters ME81–17, dated July 10, 1981 and ME81–17, Revision 1, dated November 5, 1982, the repetitive inspections may be terminated.

Note 2: Cessna Service Letter ME68–23, dated November 1, 1968, and applicable Cessna Service Manuals pertain to paragraph (a) of this AD.

(b) For the affected 401, 402 and 421 Series airplanes, accomplish the following installation within the next 12 calendar months after the effective date of this AD, unless already accomplished:

(1) Install the improved fuel and oil hose assemblies in accordance with Cessna Service Information Service Letters ME81–17, dated July 10, 1981 and ME81–17 Revision No. 1, dated November 5, 1982.

(2) The repetitive inspections required in paragraphs (a)(1) and (a)(2) of this AD may be terminated after the installations required in (b)(1) of this AD.

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An alternate method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas 67209.

Note 3: The request should be forwarded through an FAA Maintenance Inspector, who may add comments and send it to the Manager, Wichita Aircraft Certification Office. All persons affected by this directive may obtain copies of the documents referred to herein upon request to the Cessna Aircraft Company, P.O. Box 7704, Wichita, Kansas 67277; or may examine these documents at the FAA Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

This Amendment supersedes AD 72–14–08 R1, Amendment 39–1484.

Issued in Kansas City, Missouri, on October 10, 1990.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Staff.

[FR Doc. 90–24993 Filed 10–22–90; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE–86–90]

RIN 1545–AP13

Minimum Funding Requirements—Plan Restoration

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the minimum funding requirements of section 412 of the Internal Revenue Code of 1986 as they apply to plans that are restored by the Pension Benefit Guaranty Corporation. The text of those temporary regulations also serves as the text for this Notice of Proposed Rulemaking. These regulations provide the public with guidance necessary to comply with the law. They will affect sponsors of and participants in pension plans covered under title IV of the Employee Retirement Income Security Act ("ERISA").

DATES: Written comments and requests for a public hearing must be delivered or mailed by December 24, 1990.

ADDRESSES: Send comments and requests for a public hearing to: Internal Revenue Service, P.O. Box 7604 Ben Franklin Station, Attention: CC:CORP:T:R (EE–86–90), Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Michael J. Roach at 202–566–6260 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR by adding a new § 1.412(c)(1)–3T to part 1 of title 26 of the Code of Federal Regulations to provide guidance with respect to the minimum funding requirements in situations involving plans restored by the Pension Benefit Guaranty Corporation pursuant to its authority in section 4047 of the Employee Retirement Income Security Act of 1974 ("ERISA"). The regulations are proposed to be issued under the authority contained in section 7805 of the Code (26 U.S.C. 7805). For the text of the temporary regulations, see T.D. 8317 published in the Rules and Regulations portion of this issue of the **Federal Register**.

Special Analyses

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility

Act (5 U.S.C. chapter 6) do not apply to these regulations, and therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Michael J. Roach of the Office of the Assistant Chief Counsel (Employee Benefits and Exempt Organizations), Internal Revenue Service. However, a personnel from other offices of the Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 24925 Filed 10-22-90; 8:45 am]

BILLING CODE 4830-01-M

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26 CFR Part 1

[CO-77-89]

RIN 1545-AO29

Acquisitions Made To Evade or Avoid Income Tax; Use of Corporate Tax Attributes Following an Ownership Change

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations which provide guidance relating to acquisitions made to evade or avoid income tax under section 269 of the Internal Revenue Code of 1986 (the "Code").

DATES: The public hearing will be held on Monday, December 3, 1990, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by Monday, November 19, 1990.

ADDRESSES: The public hearing will be held in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R [CO-77-89], Room 4429, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-566-3935, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is a notice of proposed rulemaking which proposes additions to part 1 of title 26 of the Code of Federal Regulations ("CFR") under sections 269 and 382 of the Code. The proposed regulations provide guidance under sections 269, 382, and 383 relating to acquisitions made to evade or avoid income tax and to the use of pre-change corporate tax attributes following an ownership change with respect to which section 382(l)(5) applies. The proposed regulations appeared in the **Federal Register** for August 14, 1990 [55 FR 33137].

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" [26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Monday, November 19, 1990, an outline of the oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by the questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 90-24937 Filed 10-22-90; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Kansas Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: OSM is announcing receipt of additional revisions pertaining to a previously proposed amendment to the Kansas permanent regulatory program (hereinafter, the "Kansas program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). These revisions pertain to public hearings and minor format and editorial changes. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, and to clarify ambiguities and improve operational efficiency.

This notice sets forth the times and locations that the Kansas program, proposed amendment to that program, and additional information are available for public inspection, and the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received on or before 4 p.m., c.s.t. November 7, 1990.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Kansas program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934

Wyandotte, room 500, Kansas City, MO 64105, Telephone: (816) 374–6405.
Kansas Department of Health and Environment, Surface Mining Section, Shirk Hall, 4th Floor, 1501 S. Joplin, P.O. Box 1418, Pittsburg, KS 66762, Telephone: (316) 231–8615.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Kansas City Field Office (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Kansas Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Kansas program. General background information on the Kansas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Kansas program can be found in the January 21, 1981, **Federal Register** (46 FR 5892). Subsequent actions concerning Kansas' program and program amendments can be found at 30 CFR 916.12, 916.15, and 916.16.

II. Proposed Amendment

By letter dated June 29, 1989 (Administrative Record No. KS–436), Kansas submitted a proposed amendment to its program pursuant to SMCRA. Kansas submitted the proposed revisions (1) in response to an October 21, 1988, letter that OSM sent in accordance with 30 CFR 732.17(c) requiring certain provisions of the State program to be updated for consistency with the Federal regulations through July 1, 1988, and to satisfy anticipated deficiencies in the State program through July 1, 1989, (2) in response to a May 11, 1989, letter that OSM sent in accordance with 30 CFR 732.17(c) concerning ownership and control, and (3) at the State's own initiative to improve its program.

The regulations that Kansas proposes to amend are: Kansas Administrative Regulations (K.A.R.) 47–1–1, Title; 47–1–3, Communication; 47–1–4, Sessions; 47–1–8, Petitions to Initiate Rulemaking: 47–1–9, Notice of Citizen Suits; 47–1–1–0, General Notice Requirement; 47–1–11, Permittee Preparation and Submission of Reports; 47–2–14, Complete and Accurate Application Defined; 47–2–21, Employee Defined; 47–2–53, Regulatory Authority or State Regulatory Authority Defined; 47–2–67, Surety Bond Defined; 47–2–75, Definitions-Adoption by Reference; 47–3–1, Application for Mining Permit; 47–3–2, Application for Mining Permit-Adoption by Reference; 47–3–3a, Application for Mining Permit-Maps; 473–42, Application for Mining Permit-Adoption by Reference; 47–4–14, Public Hearing-Incorporation by Reference of K.S.A. 77–501 *et seq.*; 47–4–15, Administrative Hearings, Discovery, Incorporation by Reference; 47–4–16, Interim Orders for Temporary Relief; 47–4–17, Administrative Hearings, Award of Costs and Expenses; 47–5–5a, Civil Penalties-Adoption by Reference; 47–5–16, Civil Penalties-Final Assessment and Payment; 47–6–1, Permit Review; 47–6–2, Permit Revision; 47–6–3, Permit Renewals-Adoption by Reference; 47–6–4, Permit Transfers, Assignments, and Sales-Adoption by Reference; 47–6–6, Permit Conditions-Adoption by Reference; 47–8–9, Bonding Procedures-Adoption by Reference; 47–8–11, Use of Forfeited Bond Funds; 47–9–1, Performance Standards-Adoption by Reference; 47–9–2, Revegetation; 47–9–4, Interim Program Performance Standards-Adoption by Reference; 47–10–1, Underground Mining-Adoption by Reference; 47–11–8, Small Operator Assistance Program-Adoption by Reference; 47–12–4, Lands Unsuitable for Surface Mining-Adoption by Reference; 47–13–4, Training and Certification of Blasters-Adoption by Reference; 47–13–5, Responsibilities of Operators and Blasters-in-Charge; 47–13–6, Training Program; 47–14–7, Employee Financial Interest-Adoption by Reference; 47–15–1a, Inspection and Enforcement-Adoption by Reference; 47–15–3, Lack of Information and Inability to Comply; 47–15–4, Injunctive Relief; 47–15–7, State Inspections; 47–15–8, Citizen's Request for State Inspections; 47–15–15, Service of Notices of Violation and Cessation Orders; and 47–15–17, Maintenance of Permit Areas.

OSM published a notice in the July 14, 1989, **Federal Register** (54 FR 29742) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. KS–441). The public comment period ended August 14, 1989.

During its review of the amendment, OSM identified concerns related to K.A.R. 47–1–9(e) and (f), Notice of Citizen Suits; 47–2–21, Employee Defined; 47–2–53, Regulatory Authority or State Regulatory Authority Defined; 47–2–53a, Regulatory Program Defined; 47–2–58, Significant, Imminent Environmental Harm to Land, Air, and Water Resources Defined; 47–2–64, State Act Defined; 47–2–74, Public Road Defined; 47–2–75(a) (6), (7), and (8), Definitions; 47–2–75(b) (6) (B) and (C), Alluvial Valley Floor and Arid and Semiarid Area Defined; 47–2–75, Ownership and Control Definitions; 47–3–1, Application for Mining Permit; 47–3–2(c) (3), Application for Mining Permit; 47–3–42, Application for Mining Permit; 47–3–42 (b) (15), Special Category Permits; 47–3–42, Application for Mining Permit; 47–4–14, Incorporation by Reference of Kansas Statute Annotated 77–501 *et seq.*; 47–5–5a(a)(10), Individual Civil Penalties; 47–6–2(d), Permit Revision; 47–6–6(b) (4), Permit Review; 47–7, Coal Exploration; 47–8–9(q) (2), Bonding Procedures; 47–9–1(c) (6), Topsoil and Subsoil; 47–9–1(c) (26), Coal Mine Waste: General Requirements; 47–9–1(c) (42) and (d)(39), Surface and Underground Revegetation: Standards for Success; 47–9–1(c) (45) and (d)(44), Surface and Underground Postmining Land Use; 47–9–1(d) (2), Underground Mining Performance Standards; 47–10–1(b) (6), Underground Mining Permit Applications; and Rills and Gullies Guidelines. OSM notified Kansas of the concerns by letter dated September 8, 1989 (Administrative Record No. KS–445). Kansas responded in letters dated October 24, October 30, November 9, and November 15, 1989, and an undated letter received November 17, 1989 (Administrative Record No. KS–449), by submitting a revised amendment.

OSM published a notice in the December 1, 1989, **Federal Register** (54 FR 49773) announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (Administrative Record No. KS–470). The public comment period ended December 18, 1989.

During its review of the additional information submitted by Kansas, OSM identified concerns related to K.A.R. 47–2–75(e)(6), Definitions; 47–4–14a, (a)(2), and (b)(6), Administrative Hearings-Procedure; 47–4–15(c), Administrative Hearings-Discovery; 47–5–5a (a)(8), Procedures for Assessment Conferences; 47–5–5a (a) (10), Individual Civil Penalties; and 47–5–5a(b)(11), Civil Penalties. OSM notified Kansas of the concerns by letter dated February 13, 1990 (Administrative Record No. KS–463). Kansas responded in letters dated March 26 and June 29, 1990 (Administrative Record No. KS–471), by submitting a revised amendment. In addition, Kansas submitted proposed revisions (1) in response to a May 22, 1989, letter that OSM sent in accordance with 30 CFR 732.17(c) requiring certain provisions of the State program to be updated for consistency with the Federal regulations through July 1, 1989, (2) in response to a February 7, 1990, letter that OSM sent in accordance with 30 CFR 732.17(d) concerning incidental coal extraction, (3) concerning administrative procedures at its own initiative, and (4) in response to a June 22, 1990, letter that OSM sent in accordance with 30 CFR 732.17(d) concerning subsidence control.

On October 9, 1990, Kansas submitted additional revisions to its amendment (Administrative Record No. KS–488) at its own initiative to improve clarity by changes in format and minor editorial revisions, and to improve operational efficiency concerning public hearings at K.A.R. 47–4.

III. Public Comment Procedures

OSM is reopening the comment period on the proposed Kansas program amendment to provide the public an opportunity to reconsider the adequacy of the amendment in light of the additional materials submitted. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Kansas program.

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

List of Subjects in 30 CFR Part 916

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 16, 1990.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 90–24991 Filed 10–22–90; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 3854–1]

Approval and Promulgation of State Implementation Plans: Colorado; Regulation No. 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to approve revisions to the Colorado State Implementation Plan (SIP) submitted on November 17, 1988, by the Governor of Colorado. The revisions include amendments to Colorado Regulation No. 1 to exempt the destruction of missiles under the Intermediate-Range Nuclear Forces (INF) Treaty from meeting the opacity limits. Other amendments were also submitted on November 17, 1988, including revisions to Colorado Regulations No. 3, No. 11, No. 13 and the Common Provisions Regulation, which are addressed in other **Federal Register** Notices. EPA published a direct final rule approving the submittal in the May 11, 1989, **Federal Register** (54 FR 20389); but because notice was received that adverse comments would be submitted, the final rule was withdrawn in another **Federal Register** notice.

The submittal provides for the destruction of missiles under the INF Treaty at the Pueblo Army Depot by static firing. The opacity standard cannot be met by this operation, and the submittal exempts the missile destruction from these standards. The opactiy requirements are not necessary to enforce compliance with the permit which has been isssued to ensure that the ambient air quality will be at acceptable levels.

DATES: Comments must be received on or before November 23, 1990.

ADDRESSES: Written comments should be addressed to: Douglas M. Skie, Chief, Air Programs Branch, Environmental Protection Agency, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405.

Copies of the state submittal are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405.

Colorado Department of Health, Air Pollution Control Division Ptarmigan Place, N. Cherry Creek, Drive and Colorado Blvd., Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Dale M. Wells, Air Programs Branch, Environmental Protection Agency, One Denver Place, suite 500, 999 18th Street, Denver, Colorado 80202–2405, (303) 293–1773, (FTS) 564–1773.

SUPPLEMENTARY INFORMATION: On December 8, 1987, the United States and the Soviet Union signed the Intermediate-Range Nuclear Forces (INF) Treaty to eliminate intermediate-range and shorter-range Pershing missile systems. The treaty provides specific methods, procedures, and time frames for destroying the missiles once the treaty enters into force.

The Army completed an Environmental Assessment (EA) in February 1988, pursuant to the provisions of the National Environmental Policy Act, on the potential environmental effects of eliminating the missiles. The EA was submitted to the United States Senate for information during the treaty ratification process. The EA discussed destruction methods of static firing and open burning in the State of Colorado. The document concludes with a finding of no significant impact but points out the need for environmental permits. Pueblo Army Depot Activity is the only site evaluated in the EA for the elimination process in Colorado.

To ensure compliance with the mandates of the treaty and state and federal environmental regulations the Army consulted with the Office of the Governor, the State Department of Health, and the EPA. During meetings of April 6–7 1988, the Army was advised to submit a rulemaking peitition to exempt the Pershing elimination activity from the state opacity limit for the reason stated below:

> Air emissions from the static firing of Pershing rocket motors are emitted directly into the ambient air and therefore cannot be mitigated.

The amended Regulation No. 1, Section II.A.9 (new section) would exempt emissions from the static firing of missiles at the Pueblo Army Depot a period not to exceed 36 months from the first day of missile destruction unless otherwise mandated by amendment to the treaty or the state air permit.

In accordance with the Intermediate-Range Nuclear Forces Treaty as ratified, the Pueblo Army Depot submitted an application for an air pollution emission permit to dispose of Pershing rocket motors. On May 31, 1988, the Division observed from the test static firing of one Pershing rocket motor that the opacity of the plume from this activity would exceed the standard of 20% set forth in the Air Quality Control Commission's Regulation No. 1. The Pueblo Army Depot, in order to obtain a permit for the destruction of the remaining rocket motors, must obtain a waiver from the above opacity standard, or the permit will be denied. This waiver would be necessary due to the fact that there are no presently available methods to reduce opacity to compliance levels for this source.

The State adopted section II.A.9. in order to exempt the static firing of intermediate range and shorter range Pershing Missile systems from the opacity limits contained in Regulation No. 1, so long as such static firing results in emissions less than 250 tons per year of any one pollutant, adequate monitoring is conducted, and air pollutants are not emitted in dangerous quantities.

The opacity requirements are found in Regulation 1, Section II.A. and are primarily designed to ensure that standard smokestack type sources of air pollution are well controlled. While opacity requirements are generally appropriate for the control of both stack and fugitive emissions, the State is not, in this case, relying on the application of emission control systems for which opacity is an indication of proper operation.

Although exempted under Regulation 1 for opacity requirements, the State must issue a permit for the missile destruction under Colorado Regulation No. 3 before destruction of the missiles may commence. This permit cannot be issued unless the State determines through air quality dispersion modeling that the National Ambient Air Quality Standards, which protect against health and other effects, are met. This permit was issued on November 3, 1988, and restricts the number and time of the missile burns.

At the public hearing on July 21, 1988, various individuals commented on concerns about health effects from the missile burns. EPA also received four comments expressing concerns regarding adverse health effects and EPA's approval rationale in response to the May 11, 1989, notice. These comments were pertinent to the permit discussed above, but were not pertinent to the opacity standard. EPA reviewed the State's action in issuing the permit, and found that the State acted appropriately. EPA will take no enforcement action against past missile burns because the State has shown in its analysis of the new source permit under Colorado Regulation Number 3 that air quality standards will be met. EPA was involved in the review and approval of this permit and determined that the permit protects against violations of the National Ambient Air Quality Standards and adverse health effects.

Proposed Action

EPA proposes to approve the Colorado amendments to Colorado Regulation No. 1 to exempt the destruction of missiles under the Intermediate-Range Nuclear Forces (INF) Treaty from meeting the opacity limits because these opacity limits are not necessary for enforcement of the applicable permit. While opacity requirements are generally appropriate for the control of both stack and fugitive emissions, the State is not, in this permit, relying on the application of emission control systems for which opacity is an indication of proper operation.

Interested parties are invited to comment on all aspects of these proposed actions.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under 5 U.S.C. 605(b), I certify that this SIP Revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

This action has been classified as a Table 3 action by the Regional Administrator under procedures published in the Federal Register on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years.

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter.

Authority: 42 U.S.C. 7401–7642.

Dated: October 5, 1990.

Jack McGraw,

Acting Regional Administrator.

[FR Doc. 90–25029 Filed 10–22–90; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

44 CFR Part 67

[Docket No. FEMA–7003]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed base flood elevation modifications listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 400–14128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are

adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not prohibit development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E. O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ALABAMA	
Blount County (unincorporated areas)	
Locust Fork Black Warrior River:	
Just upstream of County Highway 13	*427
Just downstream of U.S. Highway 231	*565
Blackburn Fork Little Warrior River:	
At mouth	*433
Just downstream of County Highway 15	*450
Maps available for inspection at the County Courthouse, Oneonta, Alabama. Send comments to The Honorable Frank Green, Chairman, County Commission, Blount County, County Courthouse, Oneonta, Alabama 35960.	
Cherokee County (unincorporated areas)	
Coosa River:	
At county boundary	*539
At state boundary	*576
Chattooga River:	
At mouth	*573
About 3.2 miles upstream of State Highway 35	*581
Weiss Lake Forebay:	
Just upstream of Weiss Powerhouse Dam	*569
About 4.05 miles upstream of Weiss Powerhouse Dam	*572
Mill Creek:	
At mouth	*640
At southern county boundary	*651
Terrapin Creek:	
Just upstream of confluence of Mill Creek	*640
At southern county boundary	*654
Maps available for inspection at the County Courthouse, Centre, Alabama. Send comments to The Honorable Phillip Jordan, Chairman, County Commission, Cherokee County, County Courthouse, Centre, Alabama 35960.	
Cullman County (unincorporated areas)	
Bavar Creek:	
About 500 feet upstream of mouth	*522
Just downstream of Section Line Road	*692
Mud Creek:	
About 600 feet upstream of mouth	*466
Just upstream of CSX railroad	*529
Maps available for inspection at the County Courthouse, 500 Second Avenue, SW, Cullman, Alabama. Send comments to The Honorable Ray Gamble, Chairman, County Commission, Cullman County, 500 Second Avenue, SW. Cullman, Alabama 35055.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Tallapoosa County (unincorporated areas)	
Tallapoosa River:	
At southern county boundary	
About 1.5 miles upstream of southern county boundary	*210
Oaktasasi Creek:	*214
At mouth	
Just downstream of Pearson Chapel Road	*549
Tommy Saw Creek:	*612
At mouth	
Just downstream of North Central Avenue	*578
Maps available for inspection at the County Courthouse, Dadeville, Alabama. Send comments to The Honorable William A. Thweatt, Chairman, County Commission, Tallapoosa County, County Courthouse, Dadeville, Alabama 35853.	*589
ARKANSAS	
Bryant (city), Saline County	
Crooked Creek:	
At the downstream corporate limits	*351
Approximately .15 river mile upstream of State Route 183	*393
Crooked Creek Tributary:	
At the confluence with Crooked Creek	*373
Approximately .42 river mile upstream of confluence with Crooked Creek	*397
Bryant Tributary:	
At the confluence with Crooked Creek	*353
Approximately .18 river mile upstream of Yvonne Dam	*392
Hurricane Creek:	
Upstream side of Union Pacific Railroad	*350
Downstream side of Boone Road	*356
Maps available for inspection at the City Hall, 210 West 3rd Street, Bryant, Arkansas. Send comments to The Honorable Roy Bishop, Mayor of the City of Bryant, Saline County, City Hall, 210 West 3rd Street, Bryant, Arkansas 72022	
FLORIDA	
Baker County (unincorporated areas)	
St. Marys River:	
At downstream county boundary	*61
At confluence of Middle Prong St. Marys River	*89
North Prong St. Marys River:	
At confluence of Middle Prong St. Marys River	*89
About 1.0 mile upstream of State Road 2	*116
Middle Prong St. Marys River:	
At mouth	*90
Just downstream of State Road 250	*121
South Prong St. Marys River:	
At mouth	*70
Just downstream of State Road 125	*96
Little River:	
At mouth	*100
About 2.0 miles upstream of Baxter Road	*113
Turkey Creek:	
At mouth	*95
About 1.8 miles upstream of mouth	*107
Cedar Creek:	
At mouth	*77
Just downstream of State Road 229	*135
Maps available for inspection at the County Courthouse, 55 N. 3rd Street, MacClenny, Florida. Send comments to The Honorable Watson Goodwin, Chairman, County Commission, Baker County, 55 N. 3rd Street, MacClenny, Florida 32063.	
Jefferson County (unincorporated areas)	
Raysor Creek:	
At mouth	*71
At divergence vith Wolf Creek	*81
Wolf Creek:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
About 0.97 mile downstream of CSX railroad	*81
Just upstream of CSX railroad	*86
Just downstream of U.S. Route 90	*90
Gulf of Mexico:	
Just south of intersection of State Road 59 and U.S. Route 98	*12
At mouth of Aucilla River	*23
Aucilla River:	
Just upstream of U.S. Route 98	*11
Just downstream of state Road 146	*86
Beasley Creek:	
At mouth	*64
About 2.0 miles upstream of State Road 257	*75
Ward Creek:	
About 0.85 mile upstream of mouth	*88
Just downstream of State Road 259	*93
Maps available for inspection at the County Courthouse, Monticello, Florida. Send comments to The Honorable J.E. Cooksey, Chairman. County Commission, Jefferson County, County Courthouse, Monticello, Florida 32344.	
Liberty County (unincorporated areas)	
Big Gully Creek:	
At mouth	*41
At confluence of South Creek	*52
South Creek:	
At mouth	*52
Just downstream of unnamed road	*82
Apalachicola River:	
At southern county boundary	*20
At northern county boundary	*72
Telogia Creek:	
About 3.0 miles upstream of mouth	*36
Just downstream of Apalachicola Northern Railroad	*56
Camp Branch:	
About 2200 feet upstream of mouth	*103
Just downstream of State Road 379	*122
Just upstream of State Road 379	*128
Just downstream of unnamed road	*131
Just upstream of unnamed road	*136
About 0.8 mile upstream of State Road 389A	*157
Black Creek:	
At county boundary	*20
About 4.5 miles upstream of county boundary	*34
Maps available for inspection at the County Courthouse, Bristol, Florida. Send comments to The Honorable John T. Sanders, Chairman, County Commission, Liberty County, P.O. Box 399, Bristol, Florida 32321.	
GEORGIA	
Gordon County (unincorporated areas)	
Oostanaula River:	
Just downstream of State Route 156	*625
About 2,000 feet upstream of confluence of Camp Creek	*638
Oothcaloga Creek:	
At mouth	*630
Just downstream of Lilly Pond Road	*641
Tributary No. 1:	
At mouth	*633
About 1,550 feet upstream of U.S. Route 41	*640
Tributary No. 2:	
At mouth	*637
About 750 feet upstream of State Route 53	*654
Maps available for inspection at the Building Inspection Department, County Courthouse, 318 N. River Street, Calhoun, Georgia. Send comments to The Honorable Ellis Hite, Chairman, Board of Commission, Gordon County, P.O. Box 580, Calhoun, Georgia 30703-0580.	
Spalding County (unincorporated areas)	
Buck Creek:	
Just upstream of Barnesville Road	*676
About 700 feet upstream of South McDonough Road	*754
Cabin Creek:	
Just upstream of Wani Road	*656

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just downstream of Walkers Mill Dam	*692
Just upstream of Walkers Mill Dam	*703
Just downstream of McDonough Road	*720
Troublesome Creek:	
Just upstream of Smoak Road	*705
About 1.75 miles upstream of Jordon Hill Road	*785
Maps available for inspection at the Building Inspector's Office, County Annex Building, Griffin, Georgia. Send comments to The Honorable Wayne Johnson, County Administrator, Spalding County, 132 E. Solomon Street, Griffin, Georgia 30224.	
IOWA	
Woodbury County (unincorporated areas)	
Bacon Creek:	
At mouth	*1,122
About 2,700 feet upstream of County Highway L-36	*1,127
Little Sioux River:	
About 2,500 feet downstream of State Highway 31	*1,122
About 2,700 feet upstream of County Highway L-36	*1,126
Missouri River:	
About 10.69 miles downstream of confluence of Omaha Creek	*1,065
About 5.15 miles upstream of confluence of Omaha Creek	*1,081
Maps available for inspection at the County Engineer's Office, County Courthouse, 7th & Douglas Streets, Sioux City, Iowa. Send comments to The Honorable Jim O'Kane, Chairman, Board of Supervisors, Woodbury County, County Courthouse, 7th & Douglas Streets, Sioux City, Iowa 51101.	
NEW HAMPSHIRE	
Kingston (town), Rockingham County	
Great Pond: Entire shoreline within community	*122
Powwow Pond: Entire shoreline within community	*119
Powwow River:	
At upstream side of New Boston Road	*121
At downstream side of Ball Road	*122
Country Pond: Entire shoreline within community	*121
Maps available for inspection at the Town Clerk's Office, 163 Main Street, Kingston, New Hampshire. Send comments to The Honorable Pete Wilson, Chairman of the Town of Kingston Board of Selectmen, Rockingham County, Town Offices, 163 Main Street, Kingston, New Hampshire 03848.	
NEW MEXICO	
Valencia County (unincorporated areas)	
Rio Grande:	
Approximately 1.9 miles upstream of State Route 49	*4,860
Approximately 4.7 miles upstream of State Route 49	*4,873
Hells Canyon Wash:	
Approximately 1.1 miles downstream of State Route 236	*4,836
Approximately 0.6 mile upstream of Village of Bosque Farms corporate limits	*4,864
Maps available for inspection at the Planning and Zoning Office, County Courthouse, Los Lunas, New Mexico. Send comments to The Honorable Joe Maestas, Valencia County Manager, P.O. Box 1119, Los Lunas, New Mexico 87031.	
NEW YORK	
Mamakating (town), Sullivan County	
Basher Kill:	
At State Route 17	*513
Approximately 1.6 miles upstream of McDonald Road	*533

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Homowack Kill:	
At corporate limits	*390
At second crossing of U.S. Route 209	*532
Tributary to Homowack Kill:	
Confluence with Homowack Kill	*531
Approximately 150 feet upstream of Fish Hatchery Road	*599
Pine Kill:	
At downstream corporate limits	*516
At confluence of Tributary to Pine Kill	*1,050
Tributary to Pine Kill:	
At the confluence with Pine Kill	*1,050
Approximately 2,115 feet upstream of Knob Hill Road	*1,245
Platte Kill:	
At confluence with Shawangunk Kill	*362
At upstream corporate limits	*1,036
Tributary to Platte Kill:	
At confluence with Platte Kill	*526
Approximately 15 feet upstream of Roosa Gap and Pleasant Valley Road	*715
Sandburg Creek:	
At downstream corporate limits	*461
At upstream corporate limits	*829
Shawangunk Kill:	
At confluence of Platte Kill	*362
At upstream corporate limits	*564
Tributary I to Shawangunk Kill:	
At confluence with Shawangunk Kill	*384
Approximately 1,170 feet upstream of Ski Run Road	*541
Tributary 2 to Shawangunk Kill:	
At confluence with Shawangunk Kill	*380
Approximately 345 feet upstream of Ski Run Road	*389
Willsey Brook:	
At corporate limits	*688
Approximately 130 feet upstream of Park Road	*1,585
Tributary 1 to Willsey Brook:	
At downstream corporate limits	*705
Approximately 0.6 mile upstream of County Route 166A	*1,174
Tributary 2 to Willsey Brook:	
At confluence with Willsey Brook	*1,039
Approximately 140 feet upstream of Downy Road	*1,118
Maps available for inspection at the Town Hall, Route 209, Wurtsboro, New York. Send comments to The Honorable Dennis Greenwald, Supervisor of the Town of Mamakating, Sullivan County, P.O. Box 276, Wurtsboro, New York 12790.	
NORTH CAROLINA	
Burke County (unincorporated areas)	
Howard Creek:	
About 750 feet downstream of Bryant Road	*1,009
Just downstream of Norfolk Southern Railway	*1,128
Just upstream of Norfolk Southern Railway	*1,137
Just downstream of Mountain View Road	*1,148
Just upstream of Mountain View Road	*1,166
Just upstream of U.S. Route 70	*1,206
Drowning Creek:	
Just upstream of Norfolk Southern Railway	*938
About 325 feet upstream of Cape Hickory Road	*974
McGalliard Creek:	
About 3,700 feet downstream of Park Bridge	*1,009
Just downstream of Park Bridge	*1,021
Just upstream of Park Bridge	*1,055
About 1.66 miles upstream of Falls Road	*1,091
Henry Fork:	
At the county boundary	*928
Just downstream of dam	*939
Just upstream of dam	*962
About 4,200 feet upstream of dam	*985
Silver Creek:	
About 1.64 miles downstream of Conley Road	*1,036
About 2,200 feet downstream of Conley Road	*1,046
Catawba River:	
About 2,400 feet downstream of Watermill-Glen Alpine Road	*1,032
Just downstream of Watermill-Glen Alpine Road	*1,033

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Planning Office, Human Resources Center, Parker Road, Morganton, North Carolina. Send comments to The Honorable Thomas B. Robinson, County Manager, Burke County, Human Resources Center, Parker Road, Morganton, North Carolina 28655.	
Chatham County (unincorporated areas)	
Pokeberry Creek:	
About 1.2 miles downstream of U.S. Route 15	*346
Just downstream of SR 1528	*386
Loves Creek:	
At mouth	*504
About 1.1 miles upstream of U.S. Route 421 Bypass	*550
Rocky River:	
About 500 feet downstream of confluence of Loves Creek	*504
About 500 feet upstream of confluence of Loves Creek	*504
Little Indian Creek:	
At mouth	*251
About 2.2 miles upstream of mouth	*254
Indian Creek:	
At mouth	*251
About 2,075 feet upstream of confluence of Bear Creek	*251
Deep River:	
About 350 feet downstream of confluence of Indian Creek	*251
About 1,200 feet upstream of confluence of Indian Creek	*251
New River:	
At downstream county boundary	*401
At eastern county boundary	*415
Maps available for inspection at the County Planning Office, County Health and Office Building, 112 East Street, Pittsboro, North Carolina. Send comments to The Honorable Ben Shiver, County Manager, Chatham County, P.O. Box 87, Pittsboro, North Carolina 27312.	
Cleveland County (unincorporated areas)	
Buffalo Creek:	
Just upstream of Road 198	*602
Just downstream of Kings Mountain Dam	*666
Muddy Fork:	
At mouth	*657
About 2,000 feet upstream of confluence of Muddy Fork Tributary	*754
Muddy Fork Tributary:	
At mouth	*750
Just downstream of SR 2008	*791
Kings Mountain Reservoir: Along shoreline	*739
Maps available for inspection at the Planning and Mapping Department, County Courthouse, Room 200, Shelby, North Carolina. Send comments to The Honorable R.L. Alexander, County Manager, Cleveland County, P.O. Box 1210, Shelby, North Carolina 28150.	
Gates County (unincorporated areas)	
Harrell Swamp:	
At mouth	*27
Just upstream of SR 1320	*35
Jady Branch:	
About 2,800 feet downstream of Gum Branch	*11
Just downstream of State Road 137	*19
Raynor Swamp:	
About 1,000 feet downstream of confluence of Harrell Swamp	*27
About 500 feet upstream of confluence of Harrell swamp	*27
Chowan River:	
At southern county boundary	*8
About 2.84 miles upstream of southern county boundary	*8

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Building Inspection Office, County Courthouse, Gatesville, North Carolina. Send comments to The Honorable Edward McDuffie, County Manager, Gates County, County Courthouse, Gatesville, North Carolina 27938.	
Martin County (unincorporated areas)	
Roanoke River:	
About 7.86 miles downstream of U.S. Route 13	*8
About 9.13 miles upstream of U.S. Route 13	*15
Maps available for inspection at the Building Inspection Office, County Governmental Center, Williamston, North Carolina. Send comments to The Honorable Donnie Pittman, County Manager, Martin County, P.O. Box 668, Williamston, North Carolina 27892.	
Sampson County (unincorporated areas)	
South River:	
About 0.93 mile downstream of U.S. Route 701	*52
About 1.73 miles upstream of State Road 24	*103
Great Coharie Creek:	
About 2.16 miles downstream of State Road 24	*85
About 700 feet upstream of SR 1311	*97
Williams Old Hill Branch:	
At confluence with Great Coharie Creek	*92
Just downstream of McKoy Street	*111
Just upstream of McKoy Street	*119
Just downstream of Cemetery Road	*132
Black River:	
About 600 feet downstream of State Road 411	*46
At confluence of Great Coharie Creek	*53
Beaverdam Swamp:	
About 1,050 feet downstream of SR 1800	*144
Just downstream of SR 1703	*171
Kill Swamp:	
About 1,100 feet downstream of U.S. Route 701	*139
Just downstream of Interstate 40	*145
Just upstream of Interstate 40	*164
Just downstream of SR 1710	*165
Maps available for inspection at the County Inspection Department, 313 East Rowan Road, Clinton, North Carolina. Send comments to The Honorable Jerry Hobbs, County Manager, Sampson County, 3i3 East Rowan Road, Clinton, North Carolina 28328.	
Vance County (unincorporated areas)	
Tar River:	
About 1,200 feet downstream of confluence of Buffalo Creek	*222
About 4.1 miles upstream of U.S. Route 1	*246
Tabbs Creek:	
At mouth	*234
About 2,900 feet upstream of SR 1100	*238

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the County Manager's Office, County Courthouse, Henderson, North Carolina. Send comments to The Honorable Jerry Ayscue, County Manager, Vance County, County Courthouse, Henderson, North Carolina 27536.	
OKLAHOMA	
Washington County (unincorporated areas)	
Caney River:	
Approximately 1.4 miles downstream of the confluence of Rice Creek	*663
Approximately 1.7 miles upstream of County Road	*684
Rice Creek:	
At confluence with Caney River	*666
Approximately 0.4 mile upstream of Madison Boulevard	*745
Rice Creek Tributary:	
At confluence with Rice Creek	*667
Approximately 0.4 mile upstream of County Road	*668
Sand Creek:	
Approximately 1,160 feet downstream of confluence of Eliza Creek	*670
Approximately 1.2 miles upstream of Circle Mountain Road	*671
Eliza Creek:	
At confluence with San Creek	*670
Approximately 1.3 miles upstream of Circle Mountain Road	*671
Turkey Creek:	
At Bison Road	*727
Approximately .4 mile upstream of Bison Road	*736
Coon Creek:	
At confluence with Caney River	*675
At downstream side of Durham Avenue	*686
Maps available for inspection at the County Courthouse, 420 S. Johnston, Room 108, Bartlesville, Oklahoma. Send comments to The Honorable Joanne Bennett, Chairman of the Washington County Board of Commissioners. 205 E Bulldogger Road, Dewey, Oklahoma 74029.	
TENNESSEE	
Benton County (unincorporated areas)	
Tennessee River:	
About 5.75 miles downstream of CSX railroad	*375
About 6 miles upstream of Interstate 40	*377
Cypress Creek:	
At mouth	*375
Just downstream of Old Route 69	*401
Charlie Creek:	
At mouth	*378
Just downstream of Washington Avenue	*444
Burnside Creek:	
At mouth	*375
Just downstream of Flatwoods Church Road	*423
Cane Creek:	
At mouth	*375
About 1,050 feet upstream of Post Oak Avenue	*427

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the County Courthouse, Camden, Tennessee. Send comments to The Honorable Joe E. Wright, County Executive, Benton County, P.O. Box 298, Camden, Tennessee 38320.	
Obion County (unincorporated areas)	
Harris Fork Creek:	
Just upstream of Daniel McConnell Road	*316
About 2.0 miles upstream of Pierce Station Road	*349
Maps available for inspection at the County Courthouse, Union City, Tennessee. Send comments to The Honorable Norris Crawford, County Executive, Obion County, P.O. Box 236, Union City, Tennessee 38261.	
Weakley County (unincorporated areas)	
Mud Creek:	
Just upstream of State Route 22	*366
Just downstream of Brasfield Road	*411
Just downstream of State Route 89	*417
Maps available for inspection at the County Courthouse, Dresden, Tennessee. Send comments to The Honorable Kerry S. Killebrew, County Manager, Weakley County, County Courthouse, Room !06, Dresden, Tennessee 38225.	
TEXAS	
San Saba (city), San Saba County	
San Saba River:	
At downstream corporate limits	*1,198
Approximately .5 mile downstream of China Creek Road	*1,205
Maps available for inspection at the City Hall, San Saba, Texas. Send comments to The Honorable James Reavis, Mayor of the City of San Saba, San Saba County, 303 S. Clear, San Saba, Texas 76877.	
San Saba County (unincorporated areas)	
San Saba River:	
Approximately 1.03 miles downstream of Old Pecan Grove Road	*1,196
Approximately 2.6 miles upstream of China Creek Road	*1,212
Colorado River:	
At the downstream County boundary	*1,028
Approximately 11.7 miles upstream of downstream County boundary	*1,061
Maps available for inspection at the San Saba County Courthouse, San Saba, Texas. Send comments to The Honorable Tom Bowden, San Saba County Judge, San Saba County Courthouse, San Saba, Texas 76877.	

The proposed modified base (100-year) flood elevations for selected locations are:

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	Existing	Modified
California	City of Big Bear Lake, San Bernardino County.	Rathbun Creek	Approximately 500 feet upstream of Big Bear Lake.	None	6,744
			Approximately 200 feet downstream of SR18	6,783	6,785
			Approximately 60 feet upstream of Elm Street	6,850	6,851
			Approximately 320 feet upstream of Moonridge Road.	None	6,908
			At Lassen Drive	None	7,105

PROPOSED MODIFIED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	Existing	Modified
Maps are available for review at City Hall, Community Development Department, 39707 Big Bear Boulevard, Big Bear Lake, California. Send comments to The Honorable Bill Speyers, Mayor, City of Big Bear Lake, P.O. Box 2800, Big Bear Lake, California 92315.					
Georgia	City of Calhoun, Gordon County	Oostanaula River	About 0.72 miles downstream of North River Street.	None	*630
			About 1.79 miles upstream of North River Street	*628	*633
		Oothcalooga Creek	At mouth	*625	*630
			About 200 feet downstream of Lily Pond Road	None	*640
		Tributary No. 1	At mouth	*628	*633
			About 1550 feet upstream of U.S. Route 41	*640	*640
		Tributary No. 2	At mouth	*632	*637
			About 750 feet upstream of State Route 53	None	*654
Maps are available for inspection at the City Hall, 200 N. Wall Street, Calhoun, Georgia, Send comments to The Honorable Kathy Harrison, County Administrator, City of Calhoun P.O. Box 248, Calhourn, Georgia 30701.					
Texas	Richardson, city, Collin and Dallas Counties.	Duck Creek	At downstream corporate limits	*596	*594
		Approximately 1,000 feet upstream of Collins Boulevard.	None	*628	
		Rowlett Creek	Approximately 1,100 feet upstream of Dallas/Collin County boundary.	*505	*504
			Approximately 700 feet upstream of upstream corporate limits.	None	*517
		Spring Creek	At downstream corporate limits	None	*550
			Approximately 200 feet upstream of upstream corporate limits.	None	*594
		Stream 215.5	At downstream corporate limits	None	*556
			Approximately 750 feet upstream of downstream corporate limits.	None	*569
		Stream 5B12	Approximately 1,200 feet upstream of Waterview Drive.	None	*663
			Approximately 150 feet upstream of Drive A	None	*679
		Beck Branch	At confluence with Rowlett Creek	*506	*505
			Approximately 2,200 feet upstream of confluence	*508	*507
Maps are available for inspection at the City Hall, 411 W. Arapaho, Room 204, City Engineer's Office, Richardson, Texas. Send comments to The Honorable Charles Spann, Mayor of the City of Richardson, Collin and Dallas Counties, P.O. Box 830309, Richardson, Texas 75083.					

C.M. "Bud" Schauerte,
Administrator, Federal Insurance Administration.

[FR Doc. 90-25017 Filed 10-22-90; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 22 and 94

[General Docket No. 82-243; FCC 90-334]

Service and Technical Rules for Government and Non-Government Fixed Service Usage of the Frequency Bands 932-935 MHz and 941-944 MHz

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to amend the Commission's Rules to limit the number of applications a party can file in the Government/Non-Government Fixed Service for point-to-multipoint channels in a particular market. The objective of this action is to ensure that equitable treatment is accorded applicants for channels in the 932-932.5/941-941.5 MHz bands by preventing the filing of multiple applications for the same communications requirement.

DATES: Comments are due November 7, 1990. Reply comments are due November 19, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rodney Small, telephone (202) 653-8116.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Fourth Notice of Proposed Rulemaking in General Docket 82-243, FCC 90-334, Adopted October 5, 1990, and Released October 12, 1990.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The following collection of information contained in this proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. Copies of the submission may be purchased from International Transcription Service. Persons wishing to comment on this information collection should contact Bruce McConnell Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. A copy of any comments made should also be sent to the Federal Communications Commission, Office of the Managing Director, Washington, DC 20554. For further information contact Judy Boley, Federal Communications Commission, (202) 632-7513.

OMB Number: None.

Title: Service and Technical Rules for Government and non-Government Fixed Service Usage of the Frequency Bands 932-935 MHz and 941-941 MHz (47 CFR section 94.15).

Action: Proposed new collection.

Respondents: Business (including small business, State or local governments, and non-profit organizations).

Frequency of Response: On occasion.

Estimated Annual Burden: 50 responses; 500 total hours on respondents; 10 hours each.

Needs and Uses: If the Commission adopts a final rule in this proceeding, data submitted by respondents would be used to determine whether respondents have an ownership interest, direct or indirect, in two or more applications proposing sites within 25 miles of each other.

Summary of Proposed Rule

1. In the *First Report and Order* in this proceeding (50 FR 4650; February 1, 1985), the Commission allocated the 932–935/941–944 MHz bands for Government and non-Government (private and common carrier) fixed service usage on a co-primary basis. In the *Second Report and Order* (54 FR 10326; March 13, 1989), the Commission adopted procedures and rules to be followed in sharing the bands. Specifically, the Commission designated the 932–932.5/941–941.5 MHz bands for point-to-multipoint use and the 932.5935/941.5–944 MHz bands for point-to-point use. In the *Memorandum Opinion and Order* (55 FR 10461; March 21, 1990), the Commission clarified the application and coordination procedures for the service in response to five petitions for clarification or reconsideration. With respect to the point-to-multipoint channels, the Commission decided to conduct a nationwide lottery wherein all applications received would be ranked and then processed in the order of their ranking.

2. In accordance with the *Memorandum Opinion and Order*, the Commission's Office of Engineering and Technology (OET) released a *Public Notice* (55 23284; June 7, 1990) that solicited applications to operate in the fixed service bands at 932–935/941–944 MHz. Prior to the opening of this window, however, the Utilities Telecommunications Council (UTC) filed concurrent petitions with the Commission requesting that the filing window be stayed and that the application filing procedure be clarified or reconsidered. In support of these requests, UTC cited the failure of the *Public Notice* to prohibit applicants from filing multiple applications for the same communications requirement merely as a means of improving their odds of receiving a channel in a lottery. UTC contended that as a result of this omission and the Commission's policy in other services of limiting the filing of multiple applications in lotteries, applicants would be uncertain as to whether they could file multiple applications during the filing window. UTC requested that the Commission remove this uncertainty by clarifying whether multiple applications for the same site or service area would be accepted from the same or substantially the same applicant, absent a special showing of need in accordance with other current Commission licensing policies.

3. OET granted UTC's request for a stay of the filing window in an *Order* (55 FR 28097; July 9, 1990) that stated that UTC had raised an important issue that had not been addressed; *i.e.* the filing of multiple applications in the Government/non-Government Fixed Service. Further, OET stated that the lack of clear guidance regarding the filing of multiple applications could result in irreparable injury to some applicants.

4. The Commission believes that UTC's concern regarding the need to address the issue of whether an applicant can file more point-to-multipoint applications in a market to improve its chances in the lottery has merit.[1] Since the Commission began to use lotteries to select among competing applicants in recent years, it has usually precluded applicants from filing applications that have no purpose but to increase their chances of success in the lottery. Similar requirements appear to be warranted with respect to the point-to-multipoint channels recently made available in this proceeding. It has become clear to the Commission that the legitimate communications requirements of point-to-multipoint users will exceed the number of channels available in major urban areas. Therefore, allowing multiple applications to be filed for the same point-to-multipoint requirement would simply add to the number of applications that could not be granted and place a large administrative burden on both the applicants and the Commission. More importantly, permitting multiple applications for these channels would also unfairly provide an advantage to fee-exempt entities and applicants with substantial financial resources.

5. While the Commission believes that the filing of multiple applications for the purpose of increasing an applicant's chances in a lottery should be prohibited, it also recognizes that an applicant having a legitimate need for more than a single point-to-multipoint channel in a prticular market should not be precluded from applying for multiple facilities. Therefore, any rule that is proposed must take into account the legitimate needs of potential applicants. Further, the Commission believes that the differing nature of point-to-multipoint uses under parts 22 and 94 of the Commission's Rules requires separate rules for each service.

6. Common carrier part 22 point-to-multipoint, or multiple address, systems use of fixed facilities consists of controlling one-way signaling operations. Typically, a part 22 multiple address control station communicates with four or more base station transmitters that in turn communicate with individual paging receivers; these base stations must be listed in the application. The Commission anticipates that most part 22 applicants for the 932–932.5/941–941.5 MHz bands will require only one frequency per service area. However, it recognizes that some applicants may have a need to control base stations in more than one paging system in a particular service area. Therefore, the Commission proposes to change § 22.501(g)(1) to provide that an application for a multiple address control frequency subject to this rule making cannot propose to serve any base station that is listed in a different application for these same frequencies.

7. Part 94 users typically construct stations that communicate with more locations than the typical part 22 station. As the Commission does not require these users to specify remote base station coordinates on their applications, it must rely on a different criterion to determine whether an entity has filed duplicate applications. The Commission tentatively concludes that a mileage separation will satisfy its concerns about duplicate applications from part 94 users without unduly complicating the licensing process. The technical parameters associated with multiple address system design are expected to provide licensees with service areas of approximately 25 miles. Therefore, it is proposed to prohibit any party from having an ownership interest, direct or indirect, in two or more applications that specify sites within 25 miles of each other, unless all applications that are submitted by a common owner acknowledge that party's common interest in the applications and describe in detail how each system will be serving different needs.

8. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and

[1] With regard to the point-to-point channels, the Commission believes that no limitation on the number of applications an entity can file is necessary. The size of the point-to-point allocation and the nature of point-to-point communications are such that lotteries are rare, and there is little to gain by filing multiple applications for these channels. Accordingly, on August 23, 1990, the filing window for point-to-point channels was reopened. *See Public Notice* (55 FR 35354; August 29, 1990).

found to impose a new or modified information collection on the public. Implementation of any new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

9. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1206 of the Commision's Rules, 47 CFR § 1.1206, for rules governing permissible *ex parte* contacts.

Ordering Clause

10. This action is taken pursuant to sections 4(i) and 303(f), (g), and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), (g), and (r).

List of Subjects

47 CFR Part 22

Public mobile service, Radio.

47 CFR Part 94

Private operational-fixed microwave service, Radio.

Proposed Rule Changes

11. Part 22 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 22—PUBLIC MOBILE SERVICES

12. The authority citation for part 22 would continue to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise amended.

13. Section 22.501 is proposed to be amended by revising paragraph (g)(1) down to the table (the table is retained) to read as follows:

§ 22.501 Frequencies.

* * * * *

(g)(1) The frequencies listed in this paragraph are available for control stations utilized within multiple address system that requires the use of at least four simultaneously operated base stations operated on the same frequency assignment. These frequencies will be assigned only when there are four or more base station sites on the same frequency listed on the application for license. For purpose of this four station limitation, base stations proposed to be controlled in the 932–932.5/941–941.5 MHz bands in any multiple address control application filed pursuant to this subsection cannot be listed in, or counted towards, the four base station requirement of any other pending applications for the 932–932.5/941–941.5 MHz bands. The frequencies may be used in paired or unpaired configurations. When paired, the higher frequency will be used by the control/relay station, and the lower frequency will be used by the control station.

* * * * *

14. Part 94 of title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

15. The authority citation for part 94 would continue to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

* * * * *

16. Section 94.15 is proposed to be amended by revising paragraph (g) to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(g) Except as provided in paragraph (h) of this section, applicants requiring multiple transmit frequencies employed on separate paths from a single station location will not normally be authorized more than four of the transmit frequencies available in the band. Further, master and remote stations using frequencies listed in § 94.65(a)(1) of this part will not normally be authorized more than four (12.5 kHz) frequencies or frequency pairs. In the 932–932.5/941–941.5 MHz bands, applicants may not apply for a frequency of frequency pair within a 25 mile radius of the location of any previous license it has received or for which it has concurrently applied in the 932–932.5/941–941.5 MHz bands. Further, in these same bands, no party may have an ownership interest, direct or indirect, in two or more applications proposing sites within 25 miles of each other, unless all applications contain a statement acknowledging the commonality of ownership and describe in detail how each proposed system will serve a different communications need. Such descriptions will be evaluated by the Commission in determining the applicant's need for multiple frequencies. If any application subject to the foregoing requirement fails to contain the acknowledgement of ownership interest, all applications with a commonality of interest located within 25 miles will be dismissed.

* * * * *

17. In § 94.73, the table in paragraph (a) is proposed to be amended by removing the footnote designator and removing and reserving foot note one and revising the first sentence in footnote three to read as follows:

§ 94.73 Power limitations.

* * * * *

[3] For multiple address operations, see § 94.65(a)(1)(v). * * *

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Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 90–24917 Filed 10–22–90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90–446, RM–7082]

Radio Broadcasting Services; Key Largo, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Spanish Broadcasting System of Florida, Inc., requesting the substitution of Channel 280C2 for Channel 280A at Key Largo, Florida, and modification of its construction permit (BMPH–871120II) to specify operation on the higher class channel. Channel 280C2 can be allotted to Key Largo in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.3 kilometers (12.6 miles) southwest. The coordinates for this allotment are North Latitude 24–57–20 and West Longitude 80–34–50. In accordance with Section 1.420(g) of the Commission's Rules, competing expressions of interest for use of Channel 280C2 at Key Largo will not be considered and petitioner will not be required to demonstrate the availability of an additional equivalent channel for use by such interested parties.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: James M. Weitzman, Kay, Scholer, Fierman, Hays & Handler, 901 15th Street, NW., suite 1100, Washington, DC 20005 (Counsel for Spanish Broadcasting System of Florida, Inc.).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of

Proposed Rule Making, MM Docket No. 90–446, adopted September 27, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25051 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–130; RM–7160]

Radio Broadcasting Services; Rockledge, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of proposal.

SUMMARY: This document dismisses a petition filed by D.V.R. Broadcasting ("petitioner"), requesting the substitution of Channel 274C2 for Channel 274A and modification of its construction permit at Rockledge, Florida. See, 55 FR 10789, March 23, 1990. Petitioner did not express a continuing interest in the rule change. With this action, this proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–130, adopted September 25, 1990, and released October 18, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–25052 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–311; RM–7195]

Radio Broadcasting Services; Oak Grove, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

SUMMARY: This document dismisses the petition of Oak Grove Broadcasting to allot Channel 283C2 to Oak Grove, Florida, as that community's first local broadcast service. Petitioner filed comments requesting withdrawal of its petition for rule making. With this action, the proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–311, adopted September 25, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24518 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–444; RM–7240]

Radio Broadcasting Services; Dexter, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Daniel F. Priestley, requesting the substitution of Channel 271C2 for Channel 271A at Dexter, Maine. Petitioner also requested modification of his construction permit for Channel 271A at Dexter, to specify operation on Channel 271C2. Canadian concurrence will be requested for this allotment at coordinates 45–01–00 and 69–00–00.

DATES: Comments must filed on or before December 10, 1990, and reply comments on or before December 26, 1990..

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Patricia A. Mahoney, Fletcher, Heald & Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–444, adopted September 27, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24919 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-442, RM-7358]

Radio Broadcasting Services; Oakland, MD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Oakland Radio Station Corporation proposing the substitution of FM Channel 222A for 221A at Oakland, Maryland, and modification of the license for Station WXIE(FM) to specify the new channel. Coordinates for Channel 222A are 39-26-41 and 79-31-42.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Earl R. Stanley, Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006. (Counsel for the petitioner)

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-442, adopted September 26, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24920 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-137, RM-C005 and RM-6998]

Radio Broadcasting Services; Waseca, MN, and Menomonie and Spencer, WI

AGENCY: Federal Communications Commission.

ACTION: Order to show cause.

SUMMARY: This document directs Hackman Broadcasting, the licensee of Station WOSX, Spencer, Wisconsin, to show cause why its license should not be modified to specify operation on Channel 222A instead of Channel 221A. This action could allow Station KOWO-FM, Waseca, Minnesota, to upgrade its facility from Channel 221A to Channel 221C3, and Station WMEQ(FM), Menomonie, Wisconsin, to upgrade its facility from Channel 221A to Channel 221C3. A final determination regarding these proposals must await the outcome of action ordering the license modification of Station WOSX, Spencer, Wisconsin. This Order does not afford additional opportunity to comment on the merits of the conflicting proposal or for the acceptance of additional counterproposals. An opportunity is provided for Station WOSX to object to the ordered channel substitution.

DATES: Comments must be filed by Hackman Broadcasting on or before December 10, 1990.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90-24921 Filed 10-22-90; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-445; RM-7323, RM-7425]

Radio Broadcasting Services; Brooksville and Quitman, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on two mutually exclusive petitions for rulemaking. Quitman Broadcasting Company, Inc., has requested the substitution of Channel 255C3 for 255A at Quitman, Mississippi, and modification of the license for Station WYKK(FM) to specify operation on the new channel. The coordinates for Channel 255C3 at Quitman are 32-07-50 and 88-42-00. G. Dean Pearce proposed the allotment of FM Channel 255C3 to Brooksville, Mississippi, as that community's first local service. There is a site restriction 12.6 kilometers (7.8 miles) northeast of the community. The coordinates for Channel 255C3 at Brooksville are 33-19-54 and 88-30-39.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Herman Kelly, President, Quitman Broadcasting Company, Inc., Montrose Road, Quitman, Mississippi 39355

Paul Reynolds, 415 North College Street, Greenville, Alabama 36037, (consultant to Quitman Broadcasting Company, Inc.)

G. Dean Pearce, 1169 Northwood Lake, Northport, Alabama 35476.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90-445, adopted September 27, 1990, and

released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau,

[FR Doc. 90–24922 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 90–443, RM–7239]

Radio Broadcasting Services; Sikeston, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Delta Radio Corporation proposing the substitution of FM Channel 250C3 for 249A at Sikeston, Missouri. Petitioner also requested modification of its license for Station KSTG(FM) to specify operation on Channel 250C3. The coordinates for Channel 250C3 are 36–57–30 and 89–32–05.

DATES: Comments must be filed on or before December 10, 1990, and reply comments on or before December 26, 1990.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows:

Harry C. Martin, Troy F. Tanner, Reddy, Begley & Martin, 2033 M Street, NW., Washington, DC 20036, (counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 90–443, adopted September 25, 1990, and released October 17, 1990. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Kathleen B. Levitz,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 90–24923 Filed 10–22–90; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 383

[FHWA Docket No. MC–90–10]

RIN 2125–AC54

Commercial Driver Instruction Permits

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of comment period.

SUMMARY: In the **Federal Register** of August 22, 1990 (55 FR 34478), the FHWA published a notice of proposed rulemaking (NPRM) requesting public comment on additional minimum Federal standards for State-issued learners' permits that allow drivers to be trained in the operation of commercial motor vehicles (CMVs). The comment period was scheduled to close on October 22, 1990. Subsequently, the FHWA received a request from the American Association of Motor Vehicle Administrators (AAMVA) for an extension of the comment period in order to give the States more time to review, discuss, and develop positions on the NPRM. Owing to the complexity and importance of the NPRM, and the primary role that the States will have in implementing any resultant final rule, the FHWA is granting this request for an extension.

DATES: Comments must be received on or before November 30, 1990.

ADDRESSES: Submit written, signed comments to FHW Docket No. MC–90–10, Room 4232, HCC–10, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All answers to questions should refer to the appropriate question number, and all comments on specific provisions should refer to the appropriate section and paragraph number. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with the Word Perfect word processing program. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. e.t., Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Neil E. Moyer, Standards Review Division, Office of Motor Carrier Standards (202) 366–4009, or Mr. Paul L. Brennan, Office of the Chief Counsel, (202) 366–0834, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. e.t., Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: On October 1, 1990, the AAMVA requested the FHWA to extend, until November 26, 1990, the comment period for the NPRM on Commercial Driver Instruction Permits (CDIPs). The AAMVA asserts that the NPRM, if adopted, would lead to "significant changes" to State Commercial Driver's License issuance policies and procedures. "We are concerned," the AAMVA continues,

"that the States have sufficient time to review the proposals and consider their benefits in the context of changes to state procedures." .

The AAMVA regards the originally scheduled October 22 comment closing date as offering insufficient time to the States to respond fully to the NPRM in view of its scope and potential impact on the States. In addition, the AAMVA Region I and Region III State coordinators will be meeting in late October and early November to discuss CDL issues including the CDIP NPRM.

According to the AAMVA, while not materially affecting the FHWA time frame for issuing a final rule, the proposed extension of the comment date would assist the States in providing more responsive comments to the docket that should assist the FHWA in developing more effective and meaningful requirements in this area.

The FHWA concurs in the AAMVA's reasoning. Since the AAMVA's proposed November 26 date would fall on the Monday immediately following the Thanksgiving Day weekend, the FHWA is extending the comment period through November 30, 1990.

Authority: Title XII of Pub. L. 99-570, 100 Stat. 3207-170; 49 U.S.C. 3102; 49 U.S.C. App., 2505; 49 CFR 1.48.

List of Subjects in 49 CFR Part 383

Commercial driver's license documents, Commercial motor vehicles, Highways and roads, Motor carriers licensing and testing procedures, and Motor vehicle safety.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on October 16, 1990.

T.D. Larson,

Administrator.

[FR Doc. 90-24926 Filed 10-22-90; 8:45 am]

BILLING CODE 9910-22-M

National Highway Traffic Safety Administration

49 CFR Part 552

Petitions for Rulemaking, Defect and Noncompliance Orders

AGENCY: National Traffic Safety Administration (NHTSA), DOT.

ACTION: Petition for rulemaking; denial.

SUMMARY: This notice announces the denial of a rulemaking petition to amend Standard No. 206, *Door Locks and Door Retention Components*, to require that the door locks on any vehicle equipped with power door locks be manually operable from inside in the event of electrical power loss. Because the agency is not aware of, and because the petitioner did not identify any, specific vehicles in which this is a problem, the petition is denied.

FOR FURTHER INFORMATION CONTACT: Mr. William Boehly, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590, (202) 366-0842.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard No. 206, *Door Locks and Door Retention Components*, requires that each door of a passenger car, multipurpose passenger vehicle and truck be equipped with a locking mechanism with an "operating means in the interior of the vehicle." Further, the standard requires that when the locking mechanism is engaged in the rear side doors, both outside and inside door handles or other release controls shall be inoperative. For front doors, outside door handles or release controls shall be inoperative when the locking mechanism is engaged. The standard is silent on whether, for front doors, inside door handles or release controls are to be operative when the locking mechanism is engaged.

On June 21, 1990, C. Thomas VanVechten petitioned this agency to amend Standard No. 206 to require that a vehicle be equipped with means of manually unlocking a power door lock from inside the vehicle in the event of electrical power loss. The petitioner asserted that, on some vehicles equipped with power door locks, if the battery is discharged or disabled, it is not possible to opeen the vehicle from the inside. The petitioner did not identify any specific vehicles in which this problem occurs.

In response to this petition, NHTSA contacted General Motors, Ford, Chrysler, and the Association of International Automobile Manufacturers, Inc. (AIAM) to determine how power door locks operate on vehicles sold in the United States. Each responded that, on every vehicle they or their members produce, power door locks can be opened manually in the event of electrical power loss.

Thus, it appears from current available information that, contrary to the petitioner's assertion, power door locks can be opened from inside vehicles in the event of electrical power loss. This information is not contradicted by any data provided by the petitioner. Since the information available to the agency indicates that there is no reasonable possibility that a rule mandating that power door locks be capable of being opened manually would be issued at the conclusion of the requested rulemaking proceeding, NHTSA has decided to deny Mr. VanVetch's petition.

Issued on October 17, 1990.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 90-24990 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 90 201]

Veterinary Biological Products; Genetically Engineered Live Viral Vectored Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA

ACTION: Notice of hearing and availability of a report and a protocol for limited field trials.

SUMMARY: This document announces that the Animal and Plant Health Inspection Service will be conducting a joint State-Federal hearing to discuss: (1) The request of the Wistar Institute to conduct a limited field trial of a genetically engineered vaccinia vectored rabies vaccine at a test site in Pennsylvania; (2) The first month report of the Parramore Island, Virginia, limited field trial that was initiated on August 20, 1990, with the same vaccine, to be presented by a representative of the Wistar Institute. This document also announces the availability of the first month report of the Parramore Island field trial, additional safety data, and the sponsor's protocol for the Pennsylvania field trial.

DATES: The open hearing will be held on Wednesday, November 14, 1990, from 10 a.m. to 12:30 p.m., local time. The hearing will be reconvened from 1:30 to 4 p.m., Wednesday, November 14, 1990, if persons at the hearing who desire an opportunity to speak have not been heard. Please indicate your interest in attending this open hearing in writing, on or before November 6, 1990, addressed to the contact person listed in this notice.

ADDRESSES: The open hearing will be held at the Center City Holiday Inn, 23 S. Second Street at Chestnut Street, Harrisburg, Pennsylvania 17101. Any interested person may appear and be heard in person or through a representative. Persons who wish to be heard are requested to enter their names on the speaker's list prior to the hearing at the location of the hearing from 9 a.m. to 10 a.m. Those persons who sign the speaker's list will be heard in the order listed. However, any other person wishing to speak at the hearing will be afforded such opportunity after the listed speakers have been heard. If the number of speakers and other participants in attendance at the hearing warrants, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

A copy of the Wistar Institute's first month report of the Parramore Island field trial, additional safety data, and the sponsor's protocol for the Pennsylvania field trial are available for public inspection at the United States Department of Agriculture, room 1141 South Building, 14th Street and Independence Avenue, SW., Washington, DC 20250 between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays, and may be obtained from the contact person listed in this notice.

FOR FURTHER INFORMATION CONTACT: Dr Robert B. Miller, Senior Staff Veterinarian, Veterinary Biologics; Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, room 832, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, telephone (301) 436-5863.

SUPPLEMENTARY INFORMATION:

Background

On June 26, 1986, the United States Department of Agriculture (USDA) published its "Final Policy Statement for Research and Regulation of Biotechnology Processes and Products" as part of the Office of Science and Technology Policy (OSTP) "Coordinated Framework for the Regulation of Biotechnology" (51 FR 23336, June 26, 1986). As part of the policy statement, USDA discussed the regulation of veterinary biological products produced through biotechnological processes under the Virus-Serum-Toxin Act, as amended, (21 U.S.C. 151–159). USDA stated that such veterinary biological products will be treated similarly to products prepared by conventional techniques and each product will be evaluated as necessary to establish that it is pure, safe, potent, and efficacious as provided in the regulations (9 CFR parts 101–118).

USDA stated that for purposes of licensing, biologics derived by recombinant DNA techniques or developed from hybridomas may be classified into three broad categories.

The first category includes inactivated recombinant DNA-derived vaccines, bacterins, bacterin-toxoids, virus subunits, or bacterial subunits Monoclonal antibody (hybridoma) products used prophylactically, therapeutically, or as components of diagnostic kits are also included in this category.

The second category includes those products containing live microorganisms that have been modified by the addition or deletion of one or more genes. Precautions must be exercised to assure that this addition or deletion of specific genetic information does not impart increased virulence, pathogenicity, or survival advantages in these organisms which are greater than those found in nature or wild-type forms.

The genetic information to be added or deleted must consist of well-characterized DNA segments. A comparison is also required to be made between the genetically engineered organism and the wild type form with respect to biochemical pathways, virulence traits, and other factors affecting pathogenicity.

The third category of genetically engineered veterinary biologics includes products using live vectors to carry recombinant-derived foreign genes that code for immunizing antigens and/or other immune stimulants. USDA stated in its policy statement that with respect to products in the third category, characteristics of safety and transmission must be examined before questions and concerns dealing with safety to humans, animals and release into the environment can be answered and before such products can be considered for licensing. The Animal and Plant Health Inspection Service (APHIS) had determined that the best approach when considering category three products for licensing and release is to analyze each product individually to assure that all questions regarding safety, transmission, and other

considerations are properly addressed prior to granting any approval to field test or to issue a license.

APHIS, after reviewing its regulations in 9 CFR parts 101–118 for veterinary biological products, had determined that the requirements of such regulations are sufficient to enable the Agency to obtain the types of environmental, safety, purity, potency, and efficacy data needed to properly evaluate category three products before making a decision on the field testing and licensing of such products.

APHIS prepared a draft environmental assessment (EA), held a public meeting in Washington, DC, and prepared a final EA before authorization of a limited field trial of the live vaccinia-vectored rabies vaccine on Parramore Island. The applicant was required to comply with all requirements in 9 CFR 103.3 including obtaining state approval.

In 1989, APHIS approved under 9 CFR 103.3 the request from the Wistar Institute for authorization to conduct a limited field trial of a live vaccinia-vectored rabies vaccine that expresses the rabies virus surface glycoprotein. The limited field trial for this category three product was approved by the state of Virginia in 1989 and by the owners of the Parramore Island site, the Nature Conservancy, in August, 1990. The limited field trial was initiated on August 20, 1990. The protocol called for orally immunizing raccoons in the wild via a bait containing the vaccine.

APHIS will conduct an open hearing in Harrisburg, Pennsylvania, on November 14, 1990, to discuss: (1) The request of the Wistar Institute to conduct a limited field trial of the genetically-engineered vaccinia-vectored vaccine at a test site in Pennsylvania; and (2) The first month report of the Parramore Island limited field trial to be presented by a representative of the Wistar Institute. Please indicate your interest in attending this open hearing in writing, on or before October 31, 1990, addressed to the person listed under **"FOR FURTHER INFORMATION CONTACT"**.

APHIS has previously published in a notice (see 54 FR 161–162, January 4, 1989) the type of data that APHIS will require in deciding whether authorization will be granted to conduct a limited field trial. This hearing will aid in determining specific issues that should be addressed in the development of an EA concerning the proposed Pennsylvania limited field trial.

Done in Washington, DC, this 17th day of October 1990.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 90–24913 Filed 10–22–90; 8:45 am]

BILLING CODE 3410–34–M

Forest Service

Newspapers To Be Used for Publication of Legal Notice of Appealable Decisions for Southern Region; Alabama, Kentucky, Georgia, Tennessee, Florida, Louisiana, Mississippi, Virginia, Arkansas, Oklahoma, North Carolina, South Carolina, Texas, Puerto Rico

AGENCY: Forest Service, USDA.

ACTION: Notice; semi-annual.

SUMMARY: Deciding Officers in the Southern Region will continue to use the newspapers published in the **Federal Register** April 5, 1990 (55 FR 12693–12695), as modified below, for publication of legal notice of appealable decisions under 36 CFR part 217. As provided in 36 CFR 217.5(d), the public shall be advised, through **Federal Register** notice, of the principal newspaper to be utilized for publishing legal notices of decisions. Newspaper publication of notices of decisions is in addition to direct notice of decisions to those who have requested notice in writing and to those known to be interested in or affected by a specific decision.

DATES: The modification to the listing shall begin on or after October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Jean Paul Kruglewicz, Regional Appeals Coordinator, Southern Region, Planning and Budget, 1720 Peachtree Road, NW., Atlanta, Georgia 30367–9102, Phone: 404–347–4867.

SUPPLEMENTARY INFORMATION: Deciding Officers in the Southern Region will give legal notice of decisions subject to appeal under 36 CFR part 217 in the newspapers as previously published on April 5, 1990, with the following exceptions. The timeframe for appeal shall be based on the date of publication of the legal notice of the decision in the principal newspaper.

Chattahoochee-Oconee National Forests, Georgia District Ranger Decisions.

Change Name of Primary Newspaper of

Toccoa Ranger District: *The News Observer* published weekly (Thursday) in Blue Ridge, GA

Delete Secondary Newspaper of

Toccoa Ranger District: *News Herald,* published weekly (Thursday) in Blue Ridge, GA

National Forests in North Carolina, North Carolina District Ranger Decisions:

Delete Secondary Newspapers of

Wayah Ranger District: *Smoky Mountain Times,* published weekly (Thursday) in Bryson City, NC

Wayah Ranger District: *Sylva Herald,* published weekly (Thursday) in Sylva, NC

Ouachita National Forest, Arkansas, Oklahoma District Ranger Decision:

Change Name and City of Primary Newspaper of

Choctaw Ranger District: *Tulsa World,* published daily in Tulsa, OK

Kiamichi Ranger District: *Tulsa World,* published daily in Tulsa, Ok

Tiak Ranger District: *Tulsa World,* published daily in Tulsa, OK

Dated: October 16, 1990.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 90–25012 Filed 10–22–90; 8:45 am]

BILLING CODE 3410–11–M

Revision of the George Washington National Forest Land and Resource Management Plan; Revised Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice; Revised dates for draft and environmental impact statements.

SUMMARY: The George Washington National Forest has, as a result of the scoping process, identified twelve significant issues to be addressed in the revision of the Land and Resource Management Plan for the George Washington National Forest. To allow sufficient time to adequately analyze and address these issues, the Forest is revising the dates for the availability of the draft and final environmental impact statements.

FOR FURTHER INFORMATION CONTACT: Ronald W. Lindenboom, Interdisciplinary Team Leader, George Washington National Forest, Harrison Plaza, P.O. Box 233, Harrisonburg, Virginia 22801, phone (703) 433–2491.

SUPPLEMENTARY INFORMATION: The Notice of Intent for the revision of the Land and Resource Management Plan for the George Washington National Forest was published in the **Federal**

Register for November 2, 1989 (54 FR 46280–46281).

Twelve significant issues (including sixty-nine sub-issues) have been identified during the scoping process. Interested individuals can receive a 64-page "Summary of Issues" that lists the issues, sub-issues and synopses of substantive comments being addressed in the revision of the *Land and Resource Management Plan for the George Washington National Forest* by contacting the Interdisciplinary Team Leader.

The draft environmental impact statement was scheduled to be filed with the Environmental Protection Agency (EPA) and available for public review by March 1991. It is now expected to be available by October 1991. At that time EPA will publish a notice of availability of the draft environmental impact statement in the Federal Register.

The final environmental impact statement was scheduled to be completed by October 1991. It is now expected to be completed by May 1992.

Dated: October 17, 1990.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 90–25014 Filed 10–22–90; 8:45 am]

BILLING CODE 3410–11–M

Revised Land and Resource Management Plan for the National Forests and Grasslands in Texas, Angelina, Fannin, Houston, Jasper, Montague, Montgomery, Nacogdoches, Newton, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Walker, and Wise Counties, TX

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare a draft and final environmental impact statement for a proposed action to revise the National Forests and Grasslands in Texas Land and Resource Management Plan pursuant to 16 U.S.C. 1604(f)(5) and 36 CFR 219.12. In accordance with 40 CFR 1501.6, the Bureau of Land Management (BLM) will be a cooperating agency.

The agency invites written comments and suggestions on the scope of the analysis. In addition, the agency gives notice that a full environmental analysis and decision-making process will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

DATES: Comments concerning the scope of the analysis should be received by November 30, 1990, to ensure timely consideration.

ADDRESSES: Submit written comments and suggestions to: William M. Lannan, Forest Supervisor; National Forests in Texas; 701 N. First Street; Lufkin, Texas 75901.

FOR FURTHER INFORMATION CONTACT: Reese Pope, Planning Team Leader; (409) 639–8562.

SUPPLEMENTARY INFORMATION: The Record of Decision for the current Land and Resource Management Plan (Forest Plan) was approved on May 20, 1987. There were 8 administrative appeals of the decision. Two of them were subsequently withdrawn and one was dismissed.

While appeals were pending against the Forest Plan, the Texas Committee on Natural Resources, the Sierra Club, and the Wilderness Society, parties in an ongoing suit against the Forest Service, amended their complaints to raise, inter alia, claims regarding the Forest Plan and, pursuant to the Endangered Species Act (16 U.S.C. 1531 et seq.), claims regarding the Forest's timber management activities with respect to the effect on the red-cockaded woodpecker (*Sierra Club* v. *Lyng*, Civ. No. L–85–69–CA (E.D. Texas 1988)). The Federal District Court for the Eastern District of Texas ruled that the parties must exhaust the administrative appeal process before it would entertain the Forest Plan issues (see *Sierra Club* v. *Lyng*, 694 F. Supp. 1256 (E.D. Texas 1988)), but it proceeded to hold hearings and a trial and ruled upon the claims relating to the Endangered Species Act.

On June 17, 1988, the court issued a permanent injunction, enjoining the Forest Service from failing to implement certain practices and procedures within 1,200 meters of active and inactive red-cockaded woodpecker colony sites on the National Forests in Texas (*Sierra Club* v. *Lyng*, 694 F. Supp. 1260 (E.D. Texas 1988)). The court made amendments and clarifications to this order on October 20, 1988.

A "Comprehensive Plan" to comply with the June 17 and October 20, 1988, court orders was completed on December 15, 1988, and is currently being implemented on the National Forests in Texas. In accordance with section 7 of the Endangered Species Act, the U.S. Fish and Wildlife Service reviewed the court-ordered management approach and formally issued a jeopardy opinion.

After studying the court decision, the Chief of the Forest Service addressed the 6 remaining administrative appeals by remanding the Forest Plan to the National Forests in Texas for a new analysis and change(s) to the Forest Plan. This remand requires completion of planning steps 1–10 (36 CFR 219.12). The following six paragraphs describe the basis for the Chief's decision to remand the Forest Plan.

The court's orders directly and profoundly affect the management of approximately 200,000 acres, one-third of the 600,000 acres of the National Forests in Texas. Most notable is that the majority of these acres were originally classed as suitable for timber production and managed under the even-aged silvicultural system. Under the December 15, 1988, "Comprehensive Plan," these lands will now be managed using the selection system. To the extent the Forest Plan prescriptions for the affected acres are inconsistent, they must be changed.

The effect of the litigation likely reaches beyond changes in management on these 200,000 acres. In this case the changes that must be made are so fundamental and are on such a large portion of these National Forests, a complete re-analysis is necessary to determine whether the adjustments in the management prescriptions for the remaining areas of the National Forests are necessary. Without such a review, the essential nature of the Forest Plan, as an integrated framework for managing the whole of a National Forest System unit, would be lost.

In formulating the Forest Plan for the National Forests in Texas, the planners worked with assumptions concerning a management situation that no longer exists. A change in the management of approximately one-third the areas of the National Forests in Texas affects the level of goods and services the forests as a whole are able to supply under the current Forest Plan. These acess may now be able to supply less of some goods and services and more of others. It may no longer be feasible, under the current Forest Plan, to provide the mix of goods and services that maximizes net public benefits.

The court order per se does not require that management change outside the 200,000 acres managed for the red-cockaded woodpecker. However, the 200,00 acress are only a part of the National Forests in Texas which the National Forest Management Act requires to be planned for and managed under one integrated forest plan. Therefore, the Forest Plan must be reviewed and modified to meet the court's direction.

The case is currently under appeal to the Fifth Circuit Court of Appeals, and if

the Government prevails, the District Court's orders and the December 15, 1988, "Comprehensive Plan" based on them would not dictate the management of the 200,000 acres. In August 1988, when the Government sought amendment of the court's order, the Forest Service submitted a "Comprehensive Plan" in which it proposed an alternative for managing these acres. If the Forest Service prevails on appeal, management of these acres would not be so drastically affected as under the December 15, 1988, "Comprehensive Plan" currently in operation. However, the effect would still be sufficient to require a review and modification of the entire Forest Plan.

The Chief of the Forest Service directed that the current Forest Plan, as amended, outside the 1,200 meter red-cockaded woodpecker zones, will remain in effect and continue to be implemented during the re-analysis and preparation of the environmental impact statement.

The scope of the revision is to: (1) Establish multiple-use goals and objectives for the four National Forests (Angelina, Sam Houston, Sabine and Davy Crockett) and two Grasslands (Caddo and Lyndon B. Johnson) administered by the National Forests in Texas, (2) establish Forest-wide management requirements (standards and guidelines), (3) establish management area direction applying to future activities in each management area, (4) establish the allowable timber sale quantity and designate lands suitable for timber production, (5) make nonwilderness management area allocations and make recommendations regarding wilderness, (6) establish monitoring and evaluation requirements, (7) designate lands available for future leasing of oil and gas and other minerals, (8) determine harvest systems appropriate for use on suitable lands, (9) decide where clearcutting will not be considered for use, and (10) decide on off-road vehicle management for certain portions of the Forests.

The scope of the revision does not include the following where previously made decisions will continue to apply: (a) Allocations of existing wilderness; (b) allocations of existing Scenic, Protective, and Research Natural Areas; and (c) actions to control southern pine beetle.

The following issues will be addressed in the environmental analysis, as well as any significant issues identified during the scoping process: (1) How much, where and how timber management is to be practiced; (2) how the natural diversity of plants and animals is to be maintained; (3) how the Longleaf Ridge area is to be managed; (4) what balance of commodity and noncommodity goods and services is to be provided; (5) where and how mineral exploration and development is to be conducted; (6) where and how much off-highway vehicle use is to be allowed; and (7) what level of transportation system is to be implemented.

In preparing the environmental impact statement, the Forest Service will develop, as a minimum, a range of alternatives that: (1) Includes a "no action" alternative which is the current Forest Plan, as amended to reflect the most current court ruling (either the current District Court's decision or the pending 5th Circuit Court of Appeal's decision); (2) increase and/or decrease timber harvest and road construction levels, analyze various mixes of timber harvest methods, and analyze various mixes of nontimber activities; (3) evaluate different management strategies, including management of the Longleaf Ridge area and recommendations regarding wilderness; and (4) emphasize different mixes of timber and nontimber resources which may or may not meet demand for those resources.

Public participation will be especially important at several points during the analysis. The first point is during the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State and local agencies, Indian tribes, and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement (DEIS). The scoping process includes: (1) Identifying potential issues, (2) identifying issues to be analyzed in depth, (3) eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis, (4) exploring additional alternatives, and (5) identifying potential environmental effects of the proposed action and alternatives (i.e., direct, indirect, and cumulative effects and connected actions).

Public participation will be solicited by notifying in person and/or by mail known interested and affected publics and key contacts of the scope of the analysis. In addition, news releases will be used to give the public general notice.

The Bureau of Land Management (BLM) has legal jurisdiction pertaining to leasing and developing minerals on National Forest System lands. Consequently, the BLM will be a cooperating agency in accordance with 40 CFR 1501.6.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September 1992. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft final environmental impact statement will be 90 days from the date the EPA's notice of availability appears in the **Federal Register**. It is very important that those interested in the management of the National Forests and Grasslands in Texas participate at this time. To be most helpful, comments on the draft should be as specific as possible and should address the merits of the alternatives discussed (See the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal Court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental reviews of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions, *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978), and the environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

After the comment period ends on the draft environmental impact statement, the comments will be analyzed, considered, and responded to by the Forest Service in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by June 1993. The responsible official will consider the comments, responses, environmental consequences discussed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this revision. The responsible official will document the decision and reasons for the decision in the Record of

Decision. That decision will be subject to appeal in accordance with 36 CFR 217.

The responsible official is John E. Alcock, Regional Forester, Southern Region, 1720 Peachtree Road, NW., Atlanta, Georgia 30367.

Dated: October 16, 1990.

Marvin C. Meier,

Deputy Regional Forester.

[FR Doc. 90-25013 Filed 10-22-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

[Docket No. 900961-0261]

Foreign Availability Assessment: Pyrolytic Boron Nitrite (PBN)

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of Initiation of an Assessment and Request for Comments.

SUMMARY: The Office of Foreign Availability (OFA) is providing notice that it initiated an assessment of foreign availability of pyrolytic boron nitrite (PBN) crucibles, boats, furnace tubes, liners, and other specially designed shapes used in the manufacture of semiconductor devices, integrated circuits and "assemblies" to controlled countries. OFA will assess foreign availability under the provisions of part 791 of the Export Administration Regulations (EAR). OFA is seeking public comments on the foreign availability of these items worldwide.

DATES: The period for submission of information will close November 23, 1990.

ADDRESSES: Submit information relating to this foreign availability assessment to: Anatoli Welihozkiy, Acting Director, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, room SB-097, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, room 2525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: John Pastore, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION: Although the Export Administration Act (EAA) expired on September 30, 1990, the President, invoking the International Emergency Economic Powers Act, continued in effect the powers of the EAA and the Export Administration Regulations (EAR), to the extent permitted by law, in Executive Order 12730 of September 30, 1990.

Part 791 of the AER (15 CFR part 730 et seq.) establishes procedures and criteria for determining the foreign availability of goods and technology whose export is controlled for national security reasons. OFA is publishing this notice pursuant to Section 791.4 of the EAR.

On July 30, 1990, OFA accepted for filing a foreign availability submission pursuant to § 791.4 of the EAR relating to the decontrol of pyrolytic boron nitride (PBN) crucibles, boats, furnace tubes, liners, and other specially designed shapes used in the manufacture of semiconductor devices, integrated circuits and "assemblies" to controlled countries. These items are controlled for national security reasons under paragraph (b)(1) of Export Control Commodity Number (ECCN) 1355A of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1): Equipment for the processing of materials for the manufacture of devices and components.

Upon acceptance of the submission, OFA initiated a foreign availability assessment of the item. By December 30, 1990, the Department intends to submit for publication in the Federal Register its determination of the foreign availability of the item.

To assist OFA in assessing such foreign availablity, any person may submit relevant information to OFA at the above address.

The following information would be especially useful:

—Product names and model designations of the U.S. and non-U.S. items;
—Names and locations of non-U.S. sources;
—Key performance elements, attributes, and characteristics of the items on which quality comparisons may be made;
—Non-U.S. sources' production quantities and/or sales of any allegedly comparable item;
—An estimate of market demand and the potential economic impact of the control on the U.S. item;
—Extent to which any allegedly comparable item is based on U.S. technology;
—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is alleged.

Evidence supporting such relevant information may include, but is not limited to: foreign manufacturers' catalogs, brochures, or operations or maintenance manuals; articles from reputable trade publications; photographs; and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 of the EAR provides additional examples of evidence that would be helpful to the investigation.

OFA will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to OFA separately from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." OFA either will accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information OFA accepts as privileged under section (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 552) will be kept confidential and will not be available for public inspection, except as authorized by law. Communications from agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information received in response to this notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which also will be a matter of public record and will be available for public review and copying.

The public record of information received in response to this notice will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, room 4525, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the *Code of Federal Regulations*.

Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of

Information Officer, at the above address or by calling (202) 377–2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission of relevant information will close November 23, 1990. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages persons who wish to provide information related to this foreign availability submission to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: October 18, 1990.

James M. LeMunyon,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 90–25034 Filed 10–22–90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A–588–401]

Calcium Hypochlorite From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by petitioner, Olin Corporation, the Department of Commerce has conducted administrative reviews of the antidumping duty order on calcium hypochlorite from Japan. The reviews cover two manufacturers/exporters of this merchandise to the United States during the periods April 1, 1988 through March 31, 1989 and April 1, 1989 through March 31, 1990.

One firm had no shipments. For one firm which did not respond to our questionnaire for either review period, we used the best information available, which is the highest rate of any reviewed firm from the previous review.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1989, the Department of Commerce ("the Department") published a notice of "Opportunity to Request an Administrative Review" (54 FR 13211) of the antidumping duty order on calcium hypochlorite from Japan (50 FR 15470; April 18,1985). On April 10, 1989, the petitioner, Olin Corporation ("Olin"), requested an administrative review of the antidumping duty order. We initiated the review, covering the period April 1, 1988 through March 31, 1989, on May 24, 1989 (54 FR 22465).

On April 10, 1990, the Department published a notice of "Opportunity to Request an Administrative Review" (55 FR 13302) of the antidumping duty order on calcium hypochlorite from Japan for the period April 1, 1989 through March 31, 1990. On April 11, 1990, Olin requested an administrative review of the antidumping duty order. We initiated the review for this period on June 1, 1990 (55 FR 22366). The Department has now conducted these administrative reviews in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act"). The final results of the last administrative review in this case were published in the **Federal Register** on October 10, 1990 (55 FR 41259).

Scope of the Review

Imports covered by the reviews are shipments of calcium hypochlorite from Japan. During the review period such merchandise was classifiable under item number 418.2200 of the Tariff Schedules of the United States Annotated ("TSUSA"). This merchandise is currently classifiable under HTS item 2828.10.00.00. The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The reviews cover two manufacturers/exporters of calcium hypochlorite to the United States and the periods April 1, 1988 through March 31, 1989 and April 1, 1989 through March 31, 1990. Tohoku Tosoh Chemical Co., Ltd., had no shipments of calcium hypochlorite to the United States during the periods of review. Because Nankai Chemical Industry Co., Ltd., failed to respond to the antidumping questionnaires for both periods, the Department used the best information available for deposit and assessment purposes, which is the the highest rate of any reviewed firm from the previous review.

Preliminary Results of the Review

As a result of our reviews, we preliminarily determine the margins to be:

Manufacturer/exporter	Period	Margin (percent)
Tohoku Tosoh Chemical Co., Ltd	04/01/88–03/31/89	10.56*
	04/01/89–03/31/90	10.56*
Nankai Chemical Industry Co., Ltd	04/01/88–03/31/89	10.56
	04/01/89–03/31/90	10.56

* No shipments during the periods; margin from last review in which there were shipments.

Interested parties may request disclosure and/or an administrative protective order within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first workday thereafter. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in those comments, may be filed not later than 37 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of any written or oral comments.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required on shipments of calcium hypochlorite from Japan by the companies under review. For any future entries of this merchandise from a new producer and/or exporter, not covered in these reviews, whose first shipment occurred after March 31, 1990, and who is unrelated to any firm reviewed in this or any prior review, a cash deposit of 10.56 percent shall be required.

These deposit requirements are effective for all shipments of Japanese calcium hypochlorite entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of these administrative reviews.

These administrative reviews and notice are in accordance with 19 U.S.C. 1675(a)(1), (c) and 19 CFR 353.22.

Dated: October 15, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25036 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-005]

Carbon Steel Bars and Structural Shapes From Canada; Revocation of Antidumping Finding

AGENCY: Internation Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of revocation of antidumping finding.

SUMMARY: The Department of Commerce has determined to revoke the antidumping finding on carbon steel bars and structural shapes from Canada, because it is no longer of any interest to interested parties.

EFFECTIVE DATE: September 6, 1990.

FOR FURTHER INFORMATION CONTACT: Sheila Forbes or Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On September 6, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 36680) its intent to revoke the antidumping finding on carbon steel bars and structural shapes from Canada (29 FR 13319, September 25, 1964).

Additionally, as required by 19 CFR 353.259d)(4)(ii), the Department served written notice of its intent to revoke this finding on each interested party listed on the service list. Interested parties who might object to the revocation were provided the opportunity to submit their comments no later than thirty days from the date of publication.

Scope of the Finding

The United States, under the auspices of the Customs Cooperation Council, has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedules (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this finding are shipments of carbon steel bars bars-shapes under 3 inches, and structural shapes 3 inches and over from Canada manufactured by Western Canada Steel Ltd. Through 1988, such merchandise was classifiable under item numbers 606.8300 and 609.8000 of the Tariff Schedules of the United States Annotated. This merchandise is currently classifiable under HTS item numbers 7215.90.50 and 7216.33.00. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

Determination to Revoke

The Department may revoke an antidumping finding or order if the Secretary of Commerce concludes that the finding or the order is no longer of any interest to interested parties. We conclude that there is no interest in an antidumping finding or order when no interested party has requested an administrative review for four consecutive review periods (19 CFR 353.25(d)(4)(i)) and when no interested party objects to the revocation.

In this case, we received no requests to conduct an administrative review pursuant to our notice of Opportunity to Request Administrative Review for five consecutive review periods (51 FR 31961, September 8, 1986; 52 FR 32951, September 1, 1987; 53 Fr 33836, September 1, 1988; 54 FR 37496, September 11, 1989; 55 FR 36300, September 5, 1990). Furthermore, we received no objections to our notice of intent to revoke the antidumping finding (55 FR 36680). Based on these facts, we have concluded that the antidumping finding covering carbon steel bars and structural shapes from Canada is no longer of any interest to interested parties. Accordingly, we are revoking this antidumping finding in accordance with 19 CFR 353.25(d)(4)(iii).

The revocation applies to all unliquidated entries of carbon steel bars and structural shapes from Canada entered, or withdrawn from warehouse, for consumption on or after September 6, 1990. Entries made during the period September 1, 1989 through September 5, 1990 will be subject to automatic assessment in accordance with 19 CFR 353.22(e). The Department will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 6, 1990, without regard to antidumping duties, and to refund any estimated antidumping duties collected with respect to those entries.

This notice is in accordance with 19 CFR 353.25.

Dated: October 15, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25037 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

A-485-602]

Termination of Antidumping Duty Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From Romania

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On July 18, 1990, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, from Romania. This review has now been terminated.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1990, at the request of UCF America, Inc., an importer of the subject merchandise, the Department initiated an administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished or unfinished, (TRBs) from Romania. On July 26, 1990, the Department published in the Federal Register the notice of initiation of that administrative review (55 FR 30490). The review covered Tehnoimportexport, an exporter of Romanian TRBs, and the period June 1, 1989 through May 31, 1990. UCF America, Inc. subsequently withdrew its request for review on October 10, 1990, based upon the fact that there were no shipments during the period of review. As a result, the Department has terminated the review.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Shawn Thompson or Kate Johnson, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1776 or (202) 377-4103, respectively.

SUPPLEMENTARY INFORMATION: This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended (19 U.S.C. 1675) and 19 CFR 353.22(a)(5).

Dated: October 17, 1990.

Francis J. Sailer,

Deputy Assistant Secretary for Investigations, Import Administration.

[FR Doc. 90-25038 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

[C-614-503]

Lamb Meat From New Zealand; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On August 30, 1990, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand. We have now completed that review and determine the total bounty or grant to be 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, 0.47 percent *ad valorem* for Weddel Crown, 0.38 percent *ad volorem* for Lamb Gourmet and 2.74 percent *ad valorem* for all other firms during the period April 1, 1988 through March 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Gayle Longest or Paul McGarr, Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1990, the Department of Commerce (the Department) published in the **Federal Register** (55 FR 35443) the preliminary results of its administrative review of the countervailing duty order on lamb meat from New Zealand (50 FR 37708; September 17, 1985). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of lamb meat, other than prepared, preserved or processed, from New Zealand. During the review period, such merchandise was classifiable under items 106.3000 of the *Tariff Schedules of the United States Annotated* (TSUSA). Such merchandise is currently classifiable under items 0204.10.0000, 0204.22.2000, 0204.23.2000, 0204.30.0000, 0204.42.2000 and 0204.43.2000 of the *Harmonized Tariff Schedule* (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers the period April 1, 1988 through March 31, 1989 and two programs: (1) Export Market Development Taxation Incentive (EMDTI) and (2) Livestock Incentive Scheme (LIS).

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received no comments.

Final Results of Review

As a result of our review, we determine the total bounty or grant to be 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, 0.47 percent *ad valorem* for Weddel Crown, 0.38 percent *ad valorem* for Lamb Gourmet and 2.74 percent *ad valorem* for all other firms during the period April 1, 1988 through March 31, 1989. In accordance with 19 CFR 355.7, any rate less than 0.50 percent *ad valorem* is *de minimis*.

Therefore, the Department will instruct the Customs Service to assess countervailing duties of 16.25 percent *ad valorem* for Waitaki, 11.31 percent *ad valorem* for Richmond, and 2.74 percent *ad valorem* for all other firms, except Weddel Crown and Lamb Gourmet, on all shipments of this merchandise exported on or after April 1, 1988 and on or before March 31, 1989. For Weddel Crown and Lamb Gourmet, the Department will instruct the Customs Service to liquidate, without regard to countervailing duties, all shipments of this merchandise exported on or after April 1, 1988 and on or before March 31, 1989.

The termination of the EMDTI program reduces the total estimated bounty or grant to 0.38 percent *ad valorem*, a rate which is *de minimis*. Therefore, the Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 16, 1990.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 90-25039 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

Scope Rulings

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of scope rulings.

SUMMARY: The International Trade Administration (ITA) hereby publishes a list of scope rulings completed between April 1, 1990 and June 30, 1990. In conjunction with this list, the ITA is also publishing a list of pending scope inquiries. The ITA intends to publish future lists within thirty days of the end of each quarter.

EFFECTIVE DATE: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4851.

SUPPLEMENTARY INFORMATION:

Background

Sections 353.29(d)(8) and 355.29(d)(8) of the Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months. The lists are to include the case name, reference number, and brief description of the ruling.

This notice lists scope rulings completed between April 1, 1990 and June 30, 1990, and pending scope clarification requests. The ITA intends to publish in October 1990, a notice of scope ruling completed between July 1, 1990 and September 30, 1990.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to pending request.

Scope Rulings Completed Between April 1, 1990 and June 30, 1990

Country: Canada

A-122-401: Red Raspberries; Various Canadian growers and sellers—berries in tankers and berries in flats

are within the scope of the order—5/16/90

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings; SKF Textile Products, Inc.—antifriction bearings, including integral shaft ball bearings, that are used in textile machinery and that are imported with attachments and augmentations sufficient to advance their function beyond load-bearing/friction-reducing capability (SKF models: FL 11–014239; FL 11–013834; FL 11–013832; FL 11–014238; FL 11–014237; FL 97–017895; FL 98–017896; FL 113–017897; FL 114–017898; FL 66–104339; CK 668–012083; CK 668–012084; CK 668–013334; TL 225–012411; AW 12–014269; SR 23–008537; SR 23–012691; SR 23–953906; SR 23–953801; SR 23–953802; SR 23–953901; SR 23–953905; SR 24–954051; SR 9; FL 11–013832; FL 11–013833; FL 11–013834; FL 15–014956; FL 15–014964; TL 225–022489; TL 225–022486; TL 225–022485; TL 225–024121; CK 12–016446; CK 12–030848; CK 12–16446; CK 12–030848; LE 222–013405; LE 222–022647; LE 222–027128; DR 1918–014623; ZL 18–010975; ZL 20–018667; SR 7–953001; SR 45–017747; SR 45–028044; SR 28–01247; SR 28–012474; SR 23–954031; SR 23–954032; SR–954034; SR 23–954035; SR 23–010058; SR 23–020650; SR 23–953801; SR 23–954030; SR 24–954051; and SR 35–954151) are outside the scope of the order—5/10/90

Country: Taiwan

A–583–003: Fireplace Mesh Panels; Hechingers—inflexible, freestanding panels are outside the scope of the order—5/30/90

Pending Scope Inquiries as of June 30, 1990

Country: United Kingdom

A–412–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends

Country: France

A–427–801: Antifriction Bearings; Valeo, Societe Anonyme—clutch release berings; Bell Helicopter Textron Inc.—ball bearings for use in helicopters

Country: Federal Republic of Germany

A–428–801: Antifriction Bearings; Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends

Country: People's Republic of China

A–570–506: Porcelain-on-Steel Cookware; Texsport—camping sets

A–570–003: Cotton Shop Towels; Able Textile—towels assembled in Canada from cotton grey fabric from People's Republic of China

Country: Korea

A–580–008: Color Television Receivers; Orion Electric Co.—TV/Radio model 759C/Chassis: CTV–5x; Goldstar—TV/Radio model RCV–0615; Goldstar—TV/VCR model KMV–9002; Commodore Business Machines—computer monitor model 1084(D)

A–580–501: Photo Albums and Filler Pages; Worldsource—commemorative binders; U.S. Customs inquiry—unfinished filler pages; Bowon Trading Co.—photo frame/albums (models 101257, 201257, 200957, 214357, 279757, 301457, 401357, 200857, 201057, and 318357)

A–580–605: Color Picture Tubes; Penn-Ray Sutra Corp.—video game displays

A–580–803: Certain Small Business Telephone Systems and Subassemblies Thereof; DBA—Smartalk 208 and 308 systems; Executone—System 432 and subassemblies exclusive to it, as well as subassemblies of the Isoetec line (P/N 15200, P/N 21660, P/N 15640, P/N 15700, P/N 15600, P/N 15620, P/N 15590, P/N 15610, P/N 15680, P/N 15650, P/N 15100, P/N 15410, P/N 15660, P/N 15340, P/N 15870, P/N 09010, P/N 82300, P/N 82100, P/N 82200, P/N 82500, P/N 82400, P/N 83500/80500, P/N 82030, P/N 83700/80700, P/N 82020, P/N 15780, P/N 15790, P/N 15770, P/N 09004, and P/N 15510)

Country: Taiwan

A–583–506: Porcelain-on-Steel Cookware; RSVP—BBQ grill baskets

Country: Japan

A–588–007: Certain High Capacity Pagers; Motorola—components and subassemblies

A–588–015: Television Receiving Sets, Monochrome and Color; NEC—Subassemblies: W5A–1 (HE), W4A–1 (HE), W3A–1 (HE), W5A–1, and W4A–1; Sharp—LCD TV/Radio/Cassette model JC–AV1; Teknika Electronics Corp.—P.C.B. subassemblies; Sharp—LCD TV/VCR model VC–V542U; Casio Computer Co., Ltd., Casio, Inc., Citizen Watch Co., Ltd, Hitachi, Ltd., Hitachi Sales Corporation of America, Hitachi Sales Corporation of Hawaii, Inc., Matsushita Electric Industrial Co., Ltd., Matsushita Electric Corporation of America, NEC Corporation, NEC Home Electronics (U.S.A.), Inc., Seiko Epson Corporation, Toshiba Corporation, and Toshiba America, Inc.—certain hand-held liquid crystal display televisions (Casio Computer Co., Ltd., models TV–400T, TV–500, TV–1400, TV–3100, TV–8500; Citizen Watch Co., Ltd., models 06TA, 08TA, TB20, TA80, TC50, TC53, DD–T126, DD–P226, TC52; Matsushita Electric Industrial Co., Inc., models CT–301E/302B, CT–311E/312B; and Seiko Epson Corporation models LVD–602, LVD–702, LVD–802) and all other LCD TVs under 6" in screen size imported into the United States.

A–588–087: Portable Electric Typewriters; Portable Electric Typewriters; Matsushita—Office typewriter models KX–E400, KX–E500B ("Jetwriter"), KX–E500 [E]*, KX–E501, [E]* ("Jetwriter"), KX–E506 [E]* ("Jetwriter IIe"), KX–E508 [E]* (*–[E] is updated version); Smith Corona—"later developed" typewriters; Tokyo Juki—"office" typewriter models: Juki Seirra 4500, Sierra 3300, Sierra 3400, Sierra 3400C, Sierra 3500, Sierra 3500XL, Sierra Officewriter, Remington Rand 770, Remington Rand 775, Remington Rand 880, Avanti 1400, and Avanti 1500; Swintec/Nakajima—"office" typewriter models: 8000, 8000SP, 8011, 8011SP, 8012, 8014S,, 8014KSR, 8016, 8017, 1145CM, 1146CM, 1146CMA, 1146CMP, 1146CMSp, 1186CM, and 1186CMP; Silver Reed/Silver Seiko—"office" typewriter models: EX–200 EX–300 EX–30 (85–EP), EX–32 (87–EP), EX–34 (89–EP), EX–36 (89–SP), EX–42, EX–43, EX–44, EZ–30, and EZ–50; Matsushita—"penwriter" typerwriter models: X–Y Writer, RK–P200C, RK–P240, RK–P300, RK–P400, RK–P400C, and RK–P440

A–588–405: Cellular Mobile Telephones and Subassemblies; Matsushita—Models EB–3510 and 3511; NovAtel—Models PTR–825; Mitsubishi—Models MT–796FOR6A and 974FOR6A; Sanyo—Model CMP–310; NEC—message recording device (AVA)

A–588–609: Color Picture Tubes; Tektronix—Sony produced cathode ray tube SD–97FS; Toshiba—models A36JAR90X and A36JAR50X;

A–588–702: Stainless Steel Butt Weld Pipefittings; Benkan Corporation—super clean pipe fittings—preliminary issued 6/25/90; IMEX, Inc.—sanitary pipe fittings—preliminary issued 6/25/90

A–588–802: 3.5" Microdisks and Media Thereof; Toshiba—barium ferrite coated microdisks

A–588–804: Antifriction Bearings: Durbal GmbH, Nippon Thompson Co., Ltd., and Minebea Co., Ltd.—rod ends; Imprimis Technology Inc.—ball bearings used in production of disk drives

A–588–806: Electrolytic Manganese Dioxide; Sumitomo—High grade

chemical manganese dioxide (CMD-U)

A-588-809: Certain Small Business Telephone Systems and Subassemblies Thereof; NEC—NEAX 2400 system and subassemblies; Fujitsu—Starlog system; Toshiba—Perception II and Perception Ex systems and subassemblies (telephone sets—EKT 6000-N, EKT 6000-NM, EKT 6015-H, EKT 6015-S, EKT 6025-H, EKT 6025-SD, EKT 6025-D, EKT 6520-SD, EKT 6510-S, EKT 6510-H, EKT 6520-H, HDSS 6060, AND HDSS6560)

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

Dated: October 15, 1990.

Joseph A. Spetrini

Deputy Assistant Secretary for Compliance.

[FR Doc. 90-25035 Filed 10-22-90; 8:45 am]

BILLING CODE 3510-DS-M

National Technical Information Services

Government-Owned Inventions; Availability of Licensing

October 15, 1990.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Licensing information may be obtained by writing to: National Technical Information Service, Center for Utilization of Federal Technology—Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151. All patent applications may be purchased, specifying the serial number listed below, by writing NTIS, 5285 Port Royal Road, Springfield, Virginia 22161 or by telephoning the NTIS Sales Desk at (703) 487-4650. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Patent Licensing Specialist, Center for the Utilization of Federal Technology.

Department of Agriculture

SN 7-050-451 (4,945,057) Monoclonal Antibodies to Crystal Protein of Bacillus Thuringiensis Subspecies Israelenisis

SN 7-140,501 (4,952,497) Simple and Rapid Method for Detection of Virulent Yersinia enterocolitica

SN 7-1598,915 (4,950,472) Biocontrol of Grey-Mold in Pome Fruits Using Acremonium breve

SN 7-188,993 (4,956,343) Control of Insects by Roseotoxin B

SN 7-207,589 (4,956,353) Kojic Acid and Esters as Insecticide Synergists

SN 7-305,316 (4,949,014) Device for Regulating Luminous Flux of Battery Powered Headlamp

SN 7-365,226 Recombinant Brucella Abortus Gene Expressing Immunogenic Protein

SN 7-530,485 Plant Transformation By Gene Transfer Into Pollen

SN 7-531,680 Fruit Decelerator

SN 7-536,865 Method for Classifying Wheat Kernels as Hard or Soft

SN 7-537,855 Pseudorabies Diagnosis Probes

SN 7-540,982 Produce Bagging Machine

SN 7-552,385 Sequential Oxidative and Reductive Bleaching in a Multicomponent Single Liquor System

SN 7-552,387 Sex Attractant For The Apple Ermine Moth

SN 7-557,822 Stabilizing Unmilled Brown Rice by Ethanol Extraction

SN 7-557,827 Microbial Detoxification of Jojoba Toxins

SN 7-563,170 Nondestructive Measurement of Soluble Solids in Fruits Having a Rind or Skin

SN 7-572,070 Method for Removal of Gossypol from Cottonseed Meal by the Use of Urea in a Borate Containing Buffer

SN 7-574,014 Novel Phenol Derivative and Process for the Production of the Same

Department of Health and Human Services

SN 7-019,001 (4,912,206) A cDNA Clone Encoding Brain Amyloid of Alzheimer's Disease

SN 7-095,837 (4,931,393) Non-Infectious Mutant Clone of HIV

SN 7-098,977 (4,927,628) Improved Vaccine Against Rotavirus Diseases and Method of Preparing Same

SN 7-127,214 DNA Encoding IgE Receptor a-Subunit or Fragment Thereof

SN 7-140,269 (4,935,427) Pyrimidine and Purine 1,2-Butadinene-4 Ols as Anti-Retroviral Agents

SN 7-198,537 (4,923,985) Process for Synthesizing Macrocyclic Chelates

SN 7-250,405 Mammalian hnRNP Complex A1 and Method for Large-Scale Overproduction in E. Coli

SN 7-260,829 (4,935,367) Novel Restriction Endonuclease

SN 7-261,627 (4,939,149) Use of Resiniferatoxin and Analogues Thereof to Cause Senory Afferent C-Fiber and Thermoregulatory Desensitization

SN 7-305,331 (4,940,896) Pyroelectric Calorimeter

SN 7-316,958 (4,954,526) Stabilized Nitric Oxide-Primary Amine Complexes Useful as Cardiovascular Agents

SN 7-317,405 (4,942,182) Treatment for Cocaine Addiction

SN 7-397,226 Variable Air Flow Eddy Control (for Ventilation Systems)

SN 7-430,049 A cDNA Encoding the Long Isoform of the Rate D2 Dopamine Receptor: Expression of Receptor Protein in Plasmid-Transfected Cell Lines

SN 7-450,111 Improved Apparatus for Countercurrent Chromatography Separations and Stable Methods for Monitoring the Effluent Thereof

SN 7-450,252 Tumor-Specific Molecules for Controlling Cancer (Using Antisense Oligomers)

SN 7-457,557 Novel System For Isolating and Producing New Genes, Gene Products and DNA Sequences

SN 7-474,923 Compact Drill Sampler for Quantitation of Microorganisms in Wood

SN 7-483,516 Antigenic Proteins of Plasmodium (Malaria Vaccine Candidate)

SN 7-484,573 A Method for the Fluorescent Detection of a DNA Sequence in Real Time

SN 7-485,317 Separation of Rare Earth Elements With High Speed Counter current Chromatography

SN 7-486,958 Cloned Subgenomic Fragments of HIV-1 GAG Genes

SN 7-493,538 Universal Collector for Submandibular-Sublingual Saliva

SN 7-498,319 A BiFunctional DTPA-Type Ligand

SN 7-498,320 A Functionalized Complexand

SN 7-506,613 Method of Treating Diseases Associated with Elevated Levels of Interleukin 1

SN 7-516,463 Plaque-Inhibiting Protein From Bacteroides Loeschei and Methods for Using the Same

SN 7-518,182 Growing Ehrlichia Species in a Continuous Cell Line

SN 7-521,682 Coexpression and Interaction of Two Subunits of Vaccinia Virus Capping Enzyme

SN 7-521,706 Anti-Viral Therapy

SN 7-527,767 Peptide Derivatives of Cytochrome b558 and Their Use as Medicaments

SN 7-528,080 Waste Gas Released During Surgical Activity (Adsorption System for Scavenging Anesthetic Agents)

SN 7-531,674 Use of Visible Light for Treatment of Patients with HIV Infection

Department of Interior

SN 7-415,837 Cast-On Surfacing of Evaporative Pattern Castings

SN 7-533,647 Suspension Arrangement for Flexible, Retractable Air Conduit

SN 7-536,929 Process for the Recovery of Germanium and Gallium

SN 7-540,598 Method and Apparatus for in situ Biological Conversion of Coal to Methane

SN 7-541,689 Ultrasonic Flotation System

SN 7-548,337 Method of Mapping Underground Mines

SN 7-553,467 Concave Drag Bit Cutter Device and Method
SN 7-553,510 A Method of Enhancing Rock Fragmentation and Extending Drill Bit Life
SN 7-55,211 Explosion Suppression System

[FR Doc. 90-24941 Filed 10-22-90; 8:45 am]
BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Rice and Cotton Exchange: Proposed Amendments Relating to Delivery Points for the Rough Rice Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed contract market rule change.

SUMMARY: The Chicago Rice and Cotton Exchange (CRCE) has submitted proposed amendments to its rough rice futures contract that will change the locational price differentials for deliveries made at warehouses that are not located at mill sites. In addition, the proposed amendments will change the definition of a mill-site warehouse. The amendments will apply to all futures contract months beginning with the September 1991 contract month. Currently, the Exchange lists contract months through the November 1991 contract month. In accordance with section 5a(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (Division) of the Commodity Futures Trading Commission (Commission) has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting comment on this proposal.

DATES: Comments must be received on or before November 23, 1990.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Reference should be made to the proposed changes in delivery point differentials for the CRCE rough rice futures contract.

FOR FURTHER INFORMATION CONTACT: Frederick V. Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, telephone (202) 254-7303.

SUPPLEMENTARY INFORMATION: The rough rice futures contract currently provides that delivery may be made at approved warehouses in a twelve-county area in the state of Arkansas. Deliveries at regular warehouses located at mill sites are made at par. Deliveries at regular warehouses that are not located at mill sites are made at specified price differentials to the par points. The price differential for each non-mill-site warehouse is based on its geographic distance from the nearest mill, as indicated below:

Number of miles to nearest mill	Futures price differential
Less than 5 miles	-5 cents/cwt.
5 miles or greater, but less than 15 miles.	-10 cents/cwt.
15 miles or greater, but less than 30 miles.	-15 cents/cwt.
30 miles or greater, but less than 40 miles.	-20 cents/cwt.

The Exchange proposes to replace the above differential schedule with a single differential of minus 15 cents per hundredweight for futures deliveries at all non-mill-site warehouses, irrespective of the distance to the nearest mill. In support of the proposal, the Exchange states that the proposal will increase the pricing efficiency of the rough rice futures contract.

In addition, the Exchange proposes to change its definition of a mill-site warehouse. Under the current definition, to be classified as a mill-site warehouse, the rice mill must be operating "on a regular basis." Under the proposed definition, to be classified as a mill-site warehouse, the rice mill must be equipped to commercially mill rough rice on a regular basis and also must have milled rough rice within the last twenty-four months.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, at the above address. Copies of the amended terms and conditions can be obtained through the Office of the Secretariat by mail at the same address or by telephone at (202) 254-6314.

The materials submitted by the CRCE in support of the proposed amendments may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987). Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the above address in accordance with CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, at the above address by the specified date.

Issued in Washington, DC, on October 17, 1990.

Paul M. Architzel,
Acting Director, Division of Economic Analysis.

[FR Doc. 90-24944 Filed 10-22-90; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Military Traffic Management Command

SUBJECT: Notice.

ACTION: Announcement is made of meeting of the Military/Industry Mobile Homes Symposium. This meeting will be held on November 15, 1990 at Headquarters, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, Virginia, and will convene at 1100 hours and adjourn at approximately 1630 hours.

PROPOSED AGENDA: The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to the Personal Property Traffic Management Regulation. DOD 4500.34R, and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

FOR FURTHER INFORMATION CONTACT: Commander, Military Traffic Management Command, ATTN: MTOO-M, at telephone number 756-1600, between 0800-1530 hours. Topics to be discussed should be received on or before October 19, 1990.

John O. Roach, II,
Department of the Army Liaison With the Federal Register.

[FR Doc. 90-24938 Filed 10-22-90; 8:45 am]
BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Jacksonville District, Jacksonville, FL; Intent To Prepare Draft Environmental Impact Statement (DEIS) for Proposed Modifications to the Central and Southern Florida Project for Flood Control and Other Purposes—Canal 111

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: General design work is authorized to modify structures associated with the L–31 borrow canal and the C–111 canal for the project purpose of flood protection and for restoration of Taylor Slough and associated wetlands within Everglades National Park.

FOR FURTHER INFORMATION CONTACT: For questions about the proposed action and DEIS contact Dr. Gerald L,. Atmar, U.S. Army Engineer District, P.O. Box 4970, Jacksonville, Florida 32232–0019; telephone (904) 791–2615.

SUPPLEMENTARY INFORMATION: Canal 111 (C–111) was authorized as part of the South Dade County Area Plan of Improvement by the Flood Control Act of October 23, 1962 (Pub. L. 87–874). The specific purpose was to provide flood protection along the lower east coast of Florida. In July, 1988, a General Design Memorandum Addendum and an Environmental assessment were published addressing the need for improved flood protection, water supply, and environmental restoration. Environmental issues included unbalanced distribution of overland water flow to Florida bay and extremely large fresh water releases to Manatee Bay that occurred when an earthen plug at S–197 was removed during major flood events. Subsequent to publication of the GDM and EA, the U.S. Fish and Wildlife Service, Everglades National Park, and the State of Florida expressed dissatisfaction with the scope of the GDM–EA study. The study and EIS noticed here, are to address all affected environmental issues, including impacts to agriculture in the study area and restoration of flows to Taylor Slough in the eastern part of the park.

1. Considered action is to make operation changes to use water control structure S–174 and Pump Station S–332 to capacity to deliver water to Taylor Slough. Water in excess of capacity at S–174 would be discharged through S–1–76 and conveyed southward through C–111. Water in excess of S–332 capacity would be discharged through S–175 southward through the L–31W borrow canal along the easter boundary of Everglades National Park, and from the canal outlet southward in sheet flow toward the Park eastern panhandle.

2. Alternatives include: Making the above-described operational changes, and also installing additional pump capacity to discharge rain driven flows from the historic Taylor Slough drainage basin which crosses the Frog Pond agricultural area. Alternative pump capacities will be considered.

3. The public will be involved in the planning process through mail solicitations and advisements. As a minimum, all parties who have expressed interest in the planning process for modified water deliveries to Everglades National Park will be invited to participate in the planning process. Federal, State and local agencies, affected Indian tribes and groups, and other interested groups will be involved in the process.

4. Significant issues identified to date which shall be analyzed include possible effects on the Frog Pond Agricultural Area, Everglades National Park, Florida Bay and Manatee Bay. Federally listed species including the Florida panther, Cape Sable sparrow, and wood stork will be considered and their habitats modeled to identify effects potentially stemming from the project. Other wading birds habitat requirements will be factored into studies of effects.

5. The U.S. Fish and Wildlife Service and Everglades National Park will be invited to be cooperating agencies in the preparation of the environmental impact statement. The National Marine Fisheries Service and the Florida Game and Fresh Water Fish Commission have been consulted and asked for active participation in planning.

6. A scoping meeting is not scheduled. Meeting to address discrete issues or parts or functions of the study area may be called.

7. The DEIS is scheduled for release to the public during the first quarter of fiscal year 1992.

John Roach,

Department of the Army Liaison, Office with the Federal Register.

[FR Doc. 90–24939 Filed 10–22–90; 8:45 am]

BILLING CODE 3710–AJ–M

[37–10–GM–M]

Winfield Locks and Dam, Kanawha River, WV; Intent To Prepare Draft Environmental Impact Statement; Supplement

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a environmental impact statement supplement.

SUMMARY: The Huntington District Engineer has determined that significant environmental changes have resulted from construction activities on additional lands purchased at the Winfield Locks Replacement Project. This action is necessary to be in compliance with NEPA and to mitigate any adverse impacts from such action.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action can be answered by: Mr. Ron Keeney, Phone: 304–529–5712.

SUPPLEMENTARY INFORMATION: 1. Following completion of the Winfield Lock Replacement Interim Feasibility Report and Environmental Impact Statement (September 1986), realignment of the new lock was determined to be necessary as a result of hydraulic modeling studies. The studies found the alignment proposed in the Feasibility Report would have unsatisfactory navigation conditions at higher river stages. Therefore, several design modifications were made. These modifications made it necessary to acquire an additional 157 acres of land for channel alignment and spoil disposal. The Environmental Impact Statement Supplement will address only the impacts associated with the additional 157 acres of new land purchased. Construction efforts on the project site have been implemented.

2. Since construction of the project is ongoing at this time and the change in project has determined the new alignment, the only alternative is the one being implemented.

3. The scoping process in the development of the SEIS will entail a public involvement program and participation of the West Virginia Department of Natural Resources, the United States Fish and Wildlife Service and the United States Environmental Protection Agency as well as any other interested federal, state, local, or private agencies or persons.

4. Anticipated significant issues to be analyzed in depth in the SEIS are;

a. Terrestrial impacts on the additional lands.

b. Impacts on loss of riparian habitat.

c. Impacts on fish spawning, nursery, and feeding areas as a result of increasing channel width.

d. Impact analysis of any hazardous and toxic wastes found on the additional lands.

5. A public scoping meeting is anticipated in early 1991. This public scoping meeting will address and review all study findings and encourage public input into the SEIS process.

Dated: September 28, 1990.

James R. Van Epps,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 90–24940 Filed 10–22–90; 8:45 am]

BILLING CODE 3710–08–M

Defense Logistics Agency

Privacy Act of 1974; Amend a record system

AGENCY: Defense Logistics Agency (DLA), DOD.

ACTION: Amend a record system.

SUMMARY: The Defense Logistics Agency proposes to amend one existing record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The changes made to this notice consist of administrative changes only. Postal Service employees and non-appropriated funded employees have been separated from Federal and Quasi-Federal employees. The routine uses have been rewritten to better enable the public to identify the external agencies using the records and the uses thereof.

DATES: The proposed action will be effective without further notice on November 23, 1990, unless comments are received which would result in a contrary determination.

ADDRESSES: Ms. Susan Salus, DLA–XAM, Defense Logistics Agency, Cameron Station, Alexandria, VA 22304–6100. Telephone (202) 274–6234 or Autovon 284–6234.

SUPPLEMENTARY INFORMATION: The complete inventory of Defense Logistics Agency record system notices subject to the Privacy Act of 1974, as amended, have been published in the Federal Register as follows:

50 FR 22897, May 29, 1985 (DoD Compilation, changes follow)
50 FR 51896, Dec. 20, 1985
51 FR 27443, Jul. 31, 1986
51 FR 30104, Aug. 22, 1986
52 FR 35304, Sep. 18, 1987
52 FR 37495, Oct. 7, 1987
53 FR 04442, Feb. 16, 1988
53 FR 09965, Mar. 28, 1988
53 FR 21511, Jun. 8, 1988
53 FR 26105, Jul. 11, 1988
53 FR 32091, Aug. 23, 1988
53 FR 39129, Oct. 5, 1988
53 FR 44937, Nov. 7, 1988
53 FR 48708, Dec. 2, 1988
54 FR 11997, Mar. 23, 1989
55 FR 21978, May 30, 1990 (DLA Address Directory)
55 FR 32284, Aug. 8, 1990
55 FR 34650, Aug. 21, 1990

The specific changes to the record system being amended are set forth below, followed by the system notice, as amended, in its entirety. This notice is not within the purview of subsection (r) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), which requires the submission of an altered system report.

Dated: October 17, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S332.10 DMDC

System name:

Defense Manpower Data Center Data Base, (55 FR 32284, August 8, 1990).

Changes:

* * * * *

Categories of individual covered by the system:

Add the following two paragraphs to the end of the entry "All U.S. Postal Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense."

Categories of records in the system:

Add the following two paragraphs to the end of the entry "U.S. Postal Service records containing Social Security Number, name, salary, home and work address.

Non-appropriated fund records consists of security Security Number, name, and work address.

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location—W.R. Church Computer Center, Naval Postgraduate School, Monterey, CA 93920–5000.

Back-up files maintained in a bank vault in Hermann Hall, Naval Postgraduate School, Monterey, CA 93920–5000.

Decentralized segments—Portions of this file may be maintained by the military and non-appropriated fund personnel and finance centers of the military services, selected civilian contractors with research contracts in manpower area, and other Federal agencies.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All uniformed services officers and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired military personnel; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees separated since January 1, 1971. All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey. Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veterans Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors.

Individuals receiving disability compensation from the Department of Veterans Affairs or who are covered by a Department of Veterans Affairs' insurance or benefit program; civilian employees of the Federal Government; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All U.S. Postal Service Employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant, training and job specialty information; military personnel

information such as rank, length of service, military occupation, aptitude scores, post-service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization records; and home and work addresses.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax ID of providers or potential providers of care.

Selective Service System registration data.

Department of Veterans Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

U.S. Postal Service employment/personnel records containing Social Security Number, name, salary, home and work address.

Non-appropriated fund employment/personnel records consist of Social Security number, name, and work address.

AUTHORITY FOR THE MAINTENANCE OF THE SYSTEM:

10 U.S.C. 136, Assistant Secretaries of Defense; Appointment Powers and Duties; 10 U.S.C. 2358; Research Projects; Pub. L. 95–452, as amended (Inspector General Act of 1978); and Executive Order 9397.

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel functions to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, and to collect debts owed to the United States Government and state and local governments.

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the Department of Veterans Affairs (DVA), Statistical Policy and Research Office, Office of Information Management and Statistics, DVA Management Sciences Division to provide military personnel employment and pay data for the purpose of selection samples for surveys asking veterans about the use of veteran benefits and satisfaction with DVA services, and to validate eligibility for DVA benefits; and to analyze the cost to the individual of military service under the Veteran's Group Life Insurance program.

To the Department of Veterans Affairs (DVA) to provide identifying military personnel data to the DVA and its contractor, the Prudential Insurance Company, for the purpose of notifying members of the Individual Ready Reserve (IRR) of their right to apply for Veteran's Group Life Insurance coverage.

To the Department of Veterans Affairs (DVA) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program (38 U.S.C. 3104(c), 3006–3008). The information is used to determine continued eligibility for DVA disability compensation to receipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting overpayments.

2. Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 106—Selected Reserve and Title 38 U.S.C., Chapter 30—Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

3. Providing identification of active duty, including full-time support National Guard/Reserve military personnel, to the Veterans Benefits Administration, DVA, for the purpose of determining eligibility for or amount of benefits or verifying other information with respect thereto of DVA disability compensation to recipients who have returned to active duty. The law (38 U.S.C. 3104(c)) prohibits duplication of benefits, i.e. compensation by the DVA and receiving active service pay. DoD is obligated to provided such information to the DVA pursuant to 38 U.S.C. 3006.

To the Office of Personnel Management (OPM) consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefit, retirement deductions and any other information necessary for those management functions required by law (Pub. L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

To the Office of Personnel Management (OMP) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

1. Exchanging personnel and financial information on regular military officer retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the military finance centers and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

2. Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

3. Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the "guaranteed minimum" disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

4. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment

can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

To the Department of Health and Human Services (DHHS) Office of the Inspector General, for the purpose of identification and investigatin of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program. To the Office of Child Support Enforcement, DHHS, pursuant to 42 U.S.C. 653 and Pub. L. 94–505, to assist state child support offices in locating absent parents in order to establish and/or enforce child support obligations.

To the Social Security Administration (SSA), Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

To the Bureau of Supplemental Security Income, SSA, to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired military members or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. and E.O. 11623).

To DoD Civilian Contractors for the purpose of performing research on manpower problems for statistical analyses.

To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states.

To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and overpayments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub. L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 10 U.S.C. 2397.

To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the United States Government under the Debt Collection Act of 1982 (Pub. L. 97–365).

To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

The Defense Logistics Agency "Blanket Routine Uses" published at the beginning of the DLA compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

W.R. Church Computer Center—Tapes are stored in a locked cage in a controlled access area; tapes can be physically accessed only by computer center personnel and can be mounted for processing only if the appropriate security code is provided.

Back-up location—Tapes are stored in a bank-type vault; buildings are locked after hours and only properly cleared and authorized personnel have access.

RETENTION AND DISPOSAL:

Files constitute a historical data base and are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some acceptable identification such as driver's license or military or other identification card.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Deputy Director, Defense Manpower Data Center, 99 Pacific Street, Suite 155A, Monterey, CA 93940–2453.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

For personal visits, the individual should be able to provide some

acceptable identification such as driver's license or military or other identification card.

CONTESTING RECORD PROCEDURES:

DLA rules for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, "Personal Privacy and Rights of Individuals Regarding Their Personal Records"; 32 CFR part 1286; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veterans Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, Selective Service System, and the U.S. Postal Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90-25026 Filed 10-22-90; 8:45 am]

BILLING CODE 3810-01

Department of the Navy

Intent To Grant License; Somategenetics International, Inc.

AGENCY: Department of the Navy, DOD.

ACTION: Intent to grant exclusive patent license; Somategenetics International, Inc.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to Somategenetics International, Inc. a revocable, nonassignable, exclusive license to practice the Government-owned inventions described in U.S. Patent No. 4,776,991, "Scaled-Up Production Of Liposome-Encapsulated Hemoglobin", issued October 11, 1988 and U.S. Patent No. 4,911,929, "Blood Substitute Comprising Liposome-Encapsulated Hemoglobin", issued March 27, 1990.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of the Chief of Naval Research (Code OOCCIP), Arlington, Virginia 22217-5000.

DATES: October 23, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. R.J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCCIP), 800 N. Quincy street, Arlington, Virginia 22217-5000, telephone (703) 696-4001.

Dated: October 12, 1990.

Wayne T. Baucino,

LT, JAGC, USNR, Alternate Federal Register Liaison Officer.

[FR Doc. 90-24935 Filed 10-22-90; 8:45 am]

BILLING CODE 3810-AE-M

Privacy Act of 1974; Delete Record Systems

AGENCY: Department of the Navy, DOD.

ACTION: Delete Record Systems.

SUMMARY: The Department of the Navy proposes to delete four existing record systems in its inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The proposed action will be effective on or before October 23, 1990.

ADDRESSES: Send any comments to Mrs. Gwendolyn Aitken, Head, PA/FOIA Branch, Office of the Chief of Naval Operations (OP-09B30), Department of the Navy, The Pentagon, Washington, DC 20350-2000. Telephone (703) 614-1459.

SUPPLEMENTARY INFORMATION: The Department of the Navy record system notices for records systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a) were pubished in the **Federal Register** as follows:

51 FR 12908 Apr. 16, 1986
51 FR 18086 May 16, 1986 (DON Compilation changes follow)
51 FR 19884 Jun. 3, 1986
51 FR 30377 Aug. 26, 1986
51 FR 30393 Aug. 26, 1986
51 FR 45931 Dec. 23, 1986
52 FR 2147 Jan. 20, 1987
52 FR 2149 Jan. 20, 1987
52 FR 8500 Mar. 18, 1987
52 FR 15530 Apr. 29, 1987
52 FR 22671 Jun. 15, 1987
52 FR 45846 Dec. 2, 1987
53 FR 17240 May 16, 1988
53 FR 21512 Jun. 8, 1988
53 FR 25363 Jul. 6, 1988
53 FR 39499 Oct. 7, 1988
53 FR 41224 Oct. 20, 1988
54 FR 8322 Feb. 28, 1989
54 FR 14378 Apr. 11, 1989
54 FR 32682 Aug. 9, 1989
54 FR 40160 Sep. 29, 1989
54 FR 41495 Oct. 10, 1989
54 FR 43453 Oct. 25, 1989
54 FR 45781 Oct. 31, 1989
54 FR 48131 Nov. 21, 1989
54 FR 51784 Dec. 18, 1989
54 FR 52976 Dec. 26, 1989
54 FR 21910 May 30, 1990 (Navy Mailing Addresses)
55 FR 37930 Sep. 14, 1990

Dated: October 17, 1990.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DELETIONS

NO5100-2

SYSTEM NAME:

Diving Accidents and Injuries, (51 FR 18141, May 16, 1986).

REASON:

These records are retrieved by date of incident and unit identification code, not personal identifier.

NO5100-3

SYSTEM NAME:

Occupational Injury and Illiness, (51 FR 18141, May 16, 1986).

REASON:

These records are retrieved by date of incident and unit identification code, not personal identifier.

NO5100-4

SYSTEM NAME:

Motor Vehicle Accidents and Injuries, (51 FR 18142, May 16, 1986).

REASON:

These records are retrieved by date of incident and unit identification code, not personal identifier.

NO5100-5

SYSTEM NAME:

Aviation Mishap Report, (51 FR 18143, May 16, 1986).

REASON:

These records are retrieved by date of incident, unit identification code, aircraft type, and bureau number of the aircraft, and not personal identifier.

[FR Doc. 90-25025 Filed 10-22-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM91-1-84-004]

Caprock Pipeline Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that on October 11, 1990, Caprock Pipeline Company (Caprock) filed proposed changes in its F.E.R.C. Gas Tariff, Revised Original Volume No. 3. The purpose of these changes is to correct the ACA surcharge in its rates

for fiscal year 1990, to correct the format of Caprock's tariff sheets setting forth its currently effective rates, and to reflect the appropriate ACA surcharge for fiscal year 1991.

Caprock states that a copy of this filing has been served upon all of Caprock's customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24950 Filed 10–22–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TA91–1–32–001, RP90–166–001 TM91–1–32–002]

Colorado Interstate Gas Co.; Amended Annual PGA Filing

October 16, 1990.

Pursuant to the Commission's order issued September 28, 1990 in Docket No. TA91–1–32–000, Colorado Interstate Gas Company ("CIG") states it has reapplied for a waiver of § 154.305(b)(1) of the Commissions regulations. Although in its September 28, 1990 order the Commission denied CIG's similar waiver filed on September 5, 1990, CIG notes that such denial was without prejudice to CIG reapplying for a waiver by October 13, 1990, if CIG had signed any producer contracts before the October 1, 1990 effective date of its annual PGA that will cause it to actually incur producer demand charges.

CIG states it has entered into two such contracts with nonaffiliated producers. CIG is filing one copy of each of these contracts solely with the Commission pursuant to § 388.112 of the Commission's regulations, and requests privileged treatment by the Commission of all pages of these contracts. Such contracts have been attached in a separate sealed envelope. These contracts contain information that is commercially sensitive and could affect CIG's competitive position, and could jeopardize ongoing negotiations with other third party producers supplying gas to CIG.

CIG also submits for filing, as a part of its Original Volume No. 1 FERC Gas Tariff, 14 copies of the following proposed tariff sheets:

Second Sub. Third Rev. Second Sub. First Revised Sheet No. 7.1
Second Sub. Third Rev. Second Sub. First Revised Sheet No. 7.2
Second Sub. Third Rev. Second Sub. First Revised Sheet No. 8.1
Second Sub. Third Rev. Second Sub. First Revised Sheet No. 8.2
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 7.1
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 7.2
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 8.1
Substitute Fourth Rev. Second Sub. First Revised Sheet No. 8.2

CIG states it is revising its rates contained in its August 1, 1990 filing in Docket No. TA91–1–32–000 solely to reflect the "as billed" flow-through of the demand and commodity pricing provisions in the two newly negotiated September 28, 1990 producer contracts. This effect is shown on Second Substitute Third Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2, which reflect a 2 cent increase in the Demand-1 rate and a 0.002 cent decrease in the commodity rate for the G–1, P–1, SG–1, H–1, F–1 and PS–1 rate schedules effective October 1, 1990.

CIG states that copies of the supplemental filing have been served upon CIG's jurisdictional customers and public bodies and are otherwise available for public inspection at CIG's offices in Colorado Springs, Colorado.

CIG has requested that the Commission grant whatever waivers it may deem necessary to permit Second Substitute Third Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2 to become effective on October 1, 1990, and Substitute Fourth Revised Second Substitute First Revised Sheet Nos. 7.1 through 8.2 to become effective on November 1, 1990.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24951 Filed 10–22–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ91–1–2–001 and TM91–1–2–001

East Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that on October 11, 1990, East Tennesee Natural Gas Company (East Tennessee) tendered for filing in compliance with the Commission's September 26, 1990 Letter Order in the captioned dockets, its 59th Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1990.

East Tennessee states that the purpose of this filing is to revise the Annual Charge Adjustment (ACA) to reflect the revision in the ACA rate in the Commission's September 26, 1990 order in Docket Nos. RM97–3–000, et al., and in the Letter Order.

East Tennessee states that a copy of this tariff filing is being mailed to all affected customers on East Tennessee's system and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20416, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24952 Filed 10–22–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TM91-1-51-002]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on October 10, 1990 tendered for filing the following tariff sheet to its FERC Gas Tariff proposed to be effective November 1, 1990:

First Revised Volume No. 1

Fourth Revised Sheet No. 57(iv)

Great Lakes states that on August 29, 1990 it filed with the Commission in Docket No. TM91-1-51-000, its ACA rate pursuant to the Annual Charges Adjustment ("ACA") provisions of Commission Order No. 472.

Great Lakes states its ACA rate, $.0019 per Mcf, was specifically identified on Third Revised Sheet No. 57(iv), First Revised Volume No. 1 of its FERC Gas Tariff, to be effective October 1, 1990.

Great Lakes states that by Commission Order of September 26, 1990 in Docket No. RM87-3-000, et al, the Commission revised the ACA rate from $.0019 per Mcf to $.0022 per Mcf to correct for an omission of a debit adjustment in the determination of the appropriation ACA rate. Pursuant to Ordering Paragraph (D) of the Commission's Order, Great Lakes states that it was permitted to file, within 15 days of the Order, a revised tariff sheet to reflect a $.0022 per Mcf ACA rate to be effective November 1, 1990.

Great Lakes states that the referenced tariff sheet reflects the appropriate ACA rate as determined by the Commission's Order of September 26, 1990 in Docket No. RM87-3-000, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24953 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-65-001]

Jupiter Energy Corp.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that Jupiter Energy Corporation ("Jupiter Energy" or the "Company") on October 11, 1990 tendered for filing the following sheets of its FERC Gas Tariff, Original Volume No. 1.

Fourth Revised Sheet No. 4A
Fourth Revised Sheet No. 5A
Fourth Revised Sheet No. 6A

Jupiter Energy states that the filed tariff sheets reflect revision, pursuant to the Commission's September 26, 1990 order in the above-captioned docket, of Jupiter Energy's Annual Charge Adjustment ("ACA") surcharge. The new ACA surcharge rate is 0.22¢ per Mcf.

Jupiter Energy proposes an effective date of November 1, 1990.

Jupiter Energy states that copies of the filing have been served on the Company's jurisdictional customers.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24954 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-1-53-001 and TA91-1-53-001]

K N Energy, Inc.; Tariff Filing

October 16, 1990.

On October 11, 1990, K N Energy, Inc. (K N) tendered for filing the following revised tariff sheets:

TM91-1-53-001

Third Revised Volume No. 1

First Revised Forty-Ninth Revise Sheet No. 4
First Revised Twenty-Seventh Revised Sheet No. 4B

Original Volume No. 1-A

Fourth Revised Sheet No. 4

TA91-1-53-001

Third Revised Volume No. 1

Substitute Fifteenth Revised Sheet No. 4
Substitute Twenty-Eighth Revised Sheet No. 4B

K N states that this filing is made pursuant to the Commission's Order clarifying the Annual Charge Adjustment [ACA] unit charge and requests that the ACA related tariff sheets be made effective November 1, 1990. Prior to receiving the Commission's Order, K N filed its regularly scheduled annual PGA. The tariff sheets in the PGA have also been restated to reflect the clarified ACA surcharge.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24955 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-71-001]

Michigan Consolidated Gas Co., Interstate Storage Division; Proposed Changes in FERC Gas Tariffs

October 16, 1990.

Take notice that on October 11, 1990, Michigan Consolidated Gas Company—Interstate Storage Division (ISD) tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariffs, Original Volume No. 1, Original Volume No. 2 and Original Volume No. 3.:

Original Volume No. 1

Substitute Fourth Revised Sheet No. 1B

Original Volume No. 2

Substitute Fourth Revised Sheet No. 1A

Original Volume No. 3

Substitute Sixth Revised Sheet No. 2

ISD states that the proposed changes reflect the revised Annual Charge Adjustment (ACA) unit charge of $.0022 per Mcf in ISD's FERC Gas Tariffs. ISD states that the proposed changes are pursuant to the Commission's Order issued September 26, 1990 in Docket No. RM87–3–000, et. al., whereby the Commission revised the ACA surcharge to $.0022 per Mcf to account for the debit amounts assessed in the current year to recover undercollections from the previous year. In its order, the Commission accepted tariff sheets reflecting an ACA surcharge amount of less than $.0022 per Mcf, but permitted pipelines which submitted those sheets to file revised tariff sheets reflecting an ACA surcharge of $.0022 per Mcf within 15 days of the issuance date of the order.

ISD states that it respectfully requested waiver of the Commission's September 26, 1990 Order requiring that the revised tariff sheets be effective November 1, 1990, and requested that the above revised tariff sheets be made effective October 1, 1990. Such waiver would allow ISD to include the proper ACA surcharge rate in its October billings, thus eliminating any future billing adjustments associated with the ACA surcharge.

Alternatively, if the Commission denies ISD's requested waiver, ISD tendered for filing proposed changes to the following tariff sheets in its FERC Gas Tariffs, Original Volume No. 1, Original Volume No. 2 and Original Volume No. 3:

Original Volume No. 1

Fifth Revised Sheet No. 1B

Original Volume No. 2

Fifth Revised Sheet No. 1A

Original Volume No. 3

Seventh Revised Sheet No. 2

ISD states that the above proposed tariff sheets provide for a revised ACA surcharge of $.0022 per Mcf to be effective November 1, 1990. As stated in the Commission's September 26, 1990 Order, a billing adjustment would be permitted in the November billings to account for any ACA surcharge underrecoveries that occurred during October.

ISD states that copies of its filing have been served upon its customers and the Michigan Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24956 Filed 10–22–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TQ91–1–5–001 and TM91–1–5–001]

Midwestern Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that October 11, 1990, Midwestern Gas Transmission Company (Midwestern) submitted for filing in compliance with the Commission's September 26, 1990 Letter Order in the captioned dockets, its Seventeenth Revised Sheet No. 5 and Twelfth Revised Sheet No. 6 to First Revised Volume No. 1 of its FERC Gas Tariff, to be effective November 1, 1990.

Midwestern states that the purpose of this filing is to revise the Annual Charge Adjustment (ACA) to reflect the revision in the ACA rate in the Commission's September 26, 1990 order in Docket Nos. RM87–3–000, *et al.*, and in the Letter Order.

Midwestern states that a copy of this tariff filing is being mailed to all affected customers on Midwestern's system and state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24957 Filed 10–22–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM91–1–27–001]

North Penn Gas Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that North Penn Gas Company (North Penn) on October 11, 1990 tendered for filing Second Revised Sheet No. 3A to its FERC Gas Tariff, First Revised Volume No. 1.

North Penn states that the filed tariff sheet reflects revision, as per the Commission letter order dated September 26, 1990, of North Penn's Annual Charge Adjustment (ACA) surcharge to recover the Commission's annual charges billing. The new ACA surcharge rate is $0.0022 per Mcf.

North Penn proposes an effective date of November 1, 1990.

North Penn states that copies of the filing have been served on the Company's jurisdictional customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90–24958 Filed 10–22–90; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. TM91–1–59–002 and TF91–1–59–001]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that on October 5, 1990, Northern Natural Gas Company, Division of Enron Corp. (Northern), submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Third Revised Volume No. 1

Substitute Eighty-Fifth Revised Sheet No. 4B
Substitute Fifty-Third Revised Sheet No. 4B.1

Northern states that the purpose of this filing is due to a change in the

Annual Charge Adjustment (ACA). Northern states that the ACA rate is being restated from $.0022 to $.0021 for the month of October.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to the taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24959 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TM91-1-41-001 and TA91-1-41-001]

Paiute Pipeline Co.; Revised Annual Charge Adjustment Filing

October 16, 1990.

Take notice that on October 11, 1990, Paiute Pipeline Compnay (Paiute) tendered for filing and acceptance the following tariff sheets to be a part of its FERC Gas Tariff:

Original volume No. 1

Substitute Sixteenth Revised Sheet No. 10

Originol volume No. 1-A

Eighth Revised Sheet No. 10

Paiute states that the purpose of said filing is to revise its annual charge adjustment surcharge in order to recover the Commission's annual charges for the 1990 fiscal year as well as Commission adjustments to the prior year's ACA billing, as permitted by the Commission in its September 26, 1990 "Order Accepting and Rejecting Tariff Sheets and Clarifying Annual Charge Bills." Paiute also states that Substitute Sixteen Revised Sheet No. 10 to Original Volume No. 1 of its tariff should be substituted in Docket No. TA91-1-41 for Sixteenth Revised Sheet No. 10, which is pending acceptance and approval in Paiute's annual purchased gas cost adjustment (PGA) proceeding in that docket. Paiute indicates that Substitute Sixteenth Revised Sheet No. 10 incorporates the PGA rate changes proposed in Docket No. TA91-1-41 and reflected on Sixteenth Revised Sheet No. 10.

Paiute has requested that the Commission accept its tariff sheets to become effective on November 1, 1990.

Paiute states that copies of this filing have been mailed to all jurisdictional sales customers and affected state regulatory commissions, and have been served upon all parties in Docket No. TA91-1-41.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24960 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-28-001]

Panhandle Eastern Pipe Line Co., Change in Tariff

October 16, 1990.

Take notice that on October 11, 1990 Panhandle Easter Pipe Line Company (Panhandle) tendered for filing revised sheets to its FERC Gas Tariff, Original Volumes No. 1, as reflected in appendix No. 1, and to its FERC Gas Tariff, Original Volume No. 2, as reflected in appendix No. 2.

Panhandle states that the Commission, by Order No. 472 issued May 29, 1987, implemented procedures providing for the assessment and collection from interstate pipelines, inter alia, of annual charges as required by the Omnibus Budget Reconciliation Act of 1986. Pursuant to Order No. 472, the Commission authorized the tracking for automatic pass through to pipline customers of the annual charges. In its order issued September 26, 1990 the Commission clarified the annual charge bills affirming that "the ACA surcharge was thus intended to give the pipelines an opportunity to recover fully the annual charges for which they are billed. The sum of the surcharge attributable to fiscal year 1990 program costs plus the surcharge attributable to the true-up for fiscal year 1989 yields a total ACA surcharge for the fiscal year 1990 bill of $0.0022 per Mcf." Section 20, Annual Charge Adjustment Provision, contained in the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1 provides for the tracking of such annual charges to Panhandle's customers.

Panhandle states that in its order of September 26, 1990 the Commission provides that pipelines which filed tariff sheets refecting an ACA surcharge of less than $0.0022 per Mcf may file revised tariff sheets reflecting the $0.0022 per Mcf surcharge without additional filing fees effective November 1, 1990. The purpose of this filing are: (1) To include the Panhandle's rates by this filing a total of $0.0022 per dth in accordance with the Commission's order dated September 26, 1990 and with section 20 of the General Terms and Conditions of its FERC Gas Tariff and to incorporate in certain rate schedules in Panhandle's FERC Gas Tariff, Original Volume No. 2 ACA revisions filed by third party pipelines for which Panhandle reflects in those certain rates schedules capacity utilization.

The proposed effective date of the above referenced tariff sheets is October 1, 1990.

An effective date of November 1, 1990 as specified in the Commission's September 26, 1990 order is inconsistent with the manner in which the annual change in the ACA surcharge is implemented under Panhandle's tariff. Accordingly, Panhandle respectfully requests waiver of the Commission's September 26, 1990 order requiring that the revised tariff sheets submitted will be effective November 1, 1990, and hereby requests that the revised tariff sheets reflected in appendix No. 1 and appendix No. 2 herewith be made effective October 1, 1990.

Panhandle states that copies of this letter and enclosures are being served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24961 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-79-001]

Sabine Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 16, 1990.

Take notice that Sabine Pipe Line Company (Sabine) on October 11, 1990 tendered for filing the following proposed change to its FERC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1990.

Eighth Revised Sheet No. 20

Sabine states that the Commission has specified Annual Charges Adjustment (ACA) unit charge of $.0022/MCF to be applied to rates in 1991 for recovery of 1990 annual charges and underrecovered 1989 annual charges. The ACA unit rate of $.0022/MCF converts to $.0022/MMBTU under Sabine's basis for billing. Sabine further states that the listed tariff sheet sets forth the applicable provisions required to effect recovery of 1990 annual charges.

Sabine states that copies of the filing were served upon Sabine's customers the State of Louisiana, Department of Natural Resources, Office of Conservation and the Railroad Commission of Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 Noth Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24962 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ91-1-8-001, TM91-1-8-001, and TF91-1-8-001]

South Georgia Natural Gas Co.; Proposed Changes to FERC Gas Tariff

October 16, 1990.

Take notice that on October 11, 1990, South Georgia Natural Gas Company (South Georgia) tendered for filing the following tariff sheets to its FERC Gas Tariff First Revised Volume No. 1:

First Substitute Sixty-Fifth Revised Sheet No. 4

First Substitute Sixty-Sixth Revised Sheet No. 4

First Substitute Sixth Revised Sheet No. 34A

The foregoing tariff sheets are submitted in compliance with the Commission's letter order of September 27, 1990 in Docket Nos. TQ91-1-8-000 and TM91-1-8-000 (September 27 Order) regarding the Annual Charge Adjustment (ACA) rate. South Georgia states that the proposed tariff sheets are being filed with a proposed effective date of October 1, 1990. South Georgia states First Substitute Sixty-Fifth Revised Sheet No. 4 reflects the Commission's order in Docket Nos. RM87-3-000, TM91-1-20-000, *et al.*, which revised the ACA rate to .22¢ per Mcf. In addition, South Georgia has revised Sixty-Sixth Revised Sheet No. 4, which was filed in Docket No. TF91-1-8-000 on October 1, 1990, by way of First Substitute Sixty-Sixth Revised Sheet No. 4 in order to reflect the .22¢ per Mcf ACA rate as well.

South Georgia states that copies of the filing will be served upon all of South Georgia's purchasers, interested state commissions and interested parties as well as on all parties of record in the subject proceedings.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24963 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-2-29-001]

Transcontinental Gas Pipe Line Corp.; Supplemental Tariff Filing

October 16, 1990.

Take notice that on October 12, 1990 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as a supplement to its August 31, 1990 Annual Charge Adjustment (ACA) filing certain revised tariff sheets to Second Revised Volume No. 1 of its FERC Gas Tariff, which tariff sheets are listed in appendix A attached thereto. The August 31 filing was accepted September 26, 1990 by Commission order in Docket No. TM91-2-29-000. The purpose of the instant filing is to revise the reference reflected on certain Rate Schedule IT and FT transportation tariff sheets to conform the ACA unit rate reflected therein to the ACA unit rate approved for collection by the Commission's September 26 order. The tariff sheets submitted in the instant filing were inadvertently omitted from Transco's August 31 filing. Transco respectfully requests the Commission grant any waiver of its Regulations which may be necessary to permit the instant filing to become effective on October 1, 1990, the same date on which the tariff sheets filed in the August 31 filing were accepted to be effective.

Transco is serving copies of the instant filing upon all parties served in Docket No. TM91-2-29-000. In accordance with provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection, during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24964 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-30-001]

Trunkline Gas Co.; Change in Tariff

October 16, 1990.

Take notice that on October 11, 1990 Trunkline Gas Company (Trunkline) tendered for filing revised sheets to its FERC Gas Tariff, Original Volume No. 2, as reflected in appendix No. 1.

Trunkline states that the Commission, by Order No. 472 issued May 29, 1987, implemented procedures providing for the assessment and collecion from interstate pipelines, inter alia, of annual charges as required by the Omnibus Budget Reconciliation Act of 1986. Pursuant to Order No. 472, the Commission authorized the tracking for automatic pass through to pipeline customers of the annual charges. In its order issued September 26, 1990 the Commission clarified the annual charge bills affirming that "the ACA surcharge was thus intended to give the pipelines an opportunity to recover fully the annual charges for which they are billed. The sum of the surcharge attributable to fiscal year 1990 program costs plus the surcharge attributable to the true-up for fiscal year 1989 yields a total ACA surcharge for the fiscal year 1990 bill of $0.0022 per Mcf." Section 20, Annual Charge Adjustment Provision, contained in the General Terms and Conditions of Trunkline's FERC Gas Tariff, Original Volume No. 1 provides for the tracking of such annual charges to trunkline's customers.

Trunkline states that in its order of September 26, 1990 the Commission provides that pipelines which filed tariff sheets reflecting an ACA surcharge of less than $0.0022 per Mcf may file revised tariff sheets reflecting the $0.0022 per Mcf surcharge without additional filing fees effective November 1, 1990. Several of Trunkline's rate schedules involve utilization of Trunkline's capacity in third party pipelines. The purpose of this filing is to incorporate ACA revisions filed by these third party pipelines into Trunkline's FERC Gas Tariff, Original Volume No. 2.

The proposed effective date of the above referenced tariff sheets is October 1, 1990.

An effective date of November 1, 1990 as specified in the Commission's September 26, 1990 order is inconsistent with the manner in which the annual change in the ACA surcharge is implemented under Trunkline's tariff. Accordingly, Trunkline respectfully requests waiver of the Commission's September 26, 1990 order requiring that the revised tariff sheets submitted will be effective November 1, 1990, and hereby requests that the revised tariff sheets reflected in appendix No. 1 herewith be made effective October 1, 1990.

Trunkline states that copies of this letter and enclosure are being served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance wih Rules 214 and 211 of the Commission's Rules of Practice and Procdure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24965 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TQ90-1-11-001, TQ90-2-11-002, TA90-1-11-004]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

October 16, 1990.

Take notice that on October 12, 1990, United Gas Pine Line Company'(United tendered for filing the following tariff sheets.

Second Revised Volume No. 1 to be Effective January 1, 1990 Through March 31, 1990 Filed in Docket No. TQ90-1-11

Substitute First Revised Sheet No. 4
Substitute First Revised Sheet No. 4-A
Substitute First Revised Sheet No. 4-B
Substitute First Revised Sheet No. 4-D
Substitute First Revised Sheet No. 4-I

To be Effective April 1, 1990 Through June 30, 1990 Filed in Docket No. TQ90-2-11

Second Substitute Third Revised Sheet No. 4
Second Substitute Third Revised Sheet No. 4-A
Second Substitute Third Revised Sheet No. 4-B
Substitute Second Revised Sheet No. 4-D
Second Substitute Third Revised Sheet No. 4-I

United states that the above mentioned tariff sheets are being filed to reflect the revised PGA surcharge that was approved by Commission Order dated July 23, 1990 in Docket No. TA90-1-11-003 (United's annual PGA filing effective October 1, 1990).

United also states that the tariff sheets are being mailed to its jurisdictional customers and to interested state commissions.

Any person desiring to protect said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990)). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission are are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24966 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

Viking Gas Transmission Co.; Filing

October 16, 1990.

Take notice that on October 11, 1990, Viking Gas Transmission Company (Viking) filed its Eleventh Revised Sheet No. 6 to Original Volume No. 1 of its FERC Gas Tariff to be effective November 1, 1990. Viking states that this filing reflects the new Annual Charge Adjustment of $.0022 per dekatherm and is pursuant to the Commission's Order issued on September 26, 1990, in Docket Nos. RM87-3, *et al.*

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this

filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24967 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM91-1-76-001]

Wyoming Interstate Company Ltd.; Filing

October 16, 1990.

Take notice that on October 10, 1990, Wyoming Interstate Company, Ltd. (WIC) submitted for filing six copies of Eleventh Revised Sheet No. 5 increasing by 0.03 cent/Mcf the presently effective ACA rate from 0.19 cent/Mcf to 0.22 cent/Mcf effective November 1, 1990.

WIC notes that it sought to place a new ACA rate of 0.19 cent/Mcf in effect on October 1, 1990 in its "initial" 1990 ACA filing on August 30, 1990. This was approved by Commission order issued on September 26, 1990 in Docket No. RM87-3-000 and Docket Nos. TM91-1-20 et al. In the "initial" ACA filing, WIC did not consider as a part of the 0.19 cent/Mcf ACA rate the additional billings it had received and paid related to the Commission's under-recovery of its 1989 fiscal year ACA program costs. WIC notes, however, that it requested permission to revise its ACA charge should the Commission approve recovery of the 1989 fiscal year under-recovery amount. In paragraph D of its September 26, 1990 order, the Commission did approve a 0.03 cent/Mcf upward adjustment in the ACA rate to correct for the 1989 fiscal year under-recovery for any pipeline filing a revised ACA charge of 0.22 cent/Mcf within 15 days of the Commission's order. The revised 0.22 cent/Mcf charge is effective on November 1, 1990. The Commission also permits the filing pipeline to adjust its November, 1990 bill for the ACA under-recovery at the 0.19 cent/Mcf rate approved for October, 1990.

Accordingly, WIC submitted for filing Eleventh Revised Sheet No. 5 of its FERC Gas Tariff, Original Volume No. 1 incorporating the "revised" 0.22 cent/Mcf ACA billing rate to become effective on November 1, 1990.

WIC states that copies of this filing have been served upon WIC's jurisdictional customers and public bodies, and are otherwise available for public inspection at WIC's offices in Colorado Springs, Colorado.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1990). All such protests should be filed on or before October 23, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-24968 Filed 10-22-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-38-NG]

Phibro Energy, Inc.; Order Granting Blanket Authorization To Import and Export Natural Gas, Including Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas, and liquefied natural gas, and granting intervention.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Phibro Energy, Inc. blanket authorization to import up to 200 Bcf of natural gas, including liquefied natural gas (LNG), from Mexico, Canada, and other countries, and to export up to 200 Bcf of natural gas, including LNG, to Mexico, Canada, and other countries, over a two year term beginning on the date of first import or export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, Forrestal Building, 1000 Independence Avenue SE., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washinlgton, DC, October 15, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-24981 Filed 10-22-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-82-NG]

Poco Petroleum, Inc.; Application To Export Natural Gas to Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to export natural gas to Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on September 21, 1990, of an application filed by Poco Petroleum, Inc. (Poco), requesting blanket authorization to export from the United States to Canada up to 100,000 MMBtus per day and up to a total of 70,000,000 MMBtus (approximately 70 Bcf) of natural gas over a two-year period commencing with the date of first delivery. Poco intends to use existing pipeline facilities within the United States and at the international border for transportation of the exported natural gas. Poco states that it will notify the DOE of the date of first delivery and submit quarterly reports detailing each transaction.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures and writen comments are to be filed at the address listed below no later than 4:30 p.m., e.s.t., November 23, 1990.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, room 3F-056, FE-50, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Perry Bolger, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1789

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585 (202) 586-6667

SUPPLEMENTARY INFORMATION: Poco is a Delaware corporation and the wholly owned subsidiary of Poco Petroleums Ltd., an Alberta corporation headquartered in Calgary, Alberta. Poco

requests authorization to export for its own account as well as for the accounts of suppliers and purchasers. Poco states that the contractual arrangements will be the product of arms-length negotiations with an emphasis on competitive prices and contract flexibility.

This export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, expecially those that may oppose this application, should comment on these matters as they related to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangements. Parties opposing this application bear the burden of overcoming this assertion.

All parties should be aware that if this blanket export application is granted, a total two-year term volume may be designated, rather than a daily or annual limit, in order to provide the applicant with maximum flexibility of operation.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and response filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Poco's application is available for inspection and copying in the Office of Fuels Programs Docket Room, room 3F–056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., e.s.t., Monday through Friday, except Federal holidays.

Issued in Washington, DC on October 15, 1990.

Clifford L. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90–24982 Filed 10–22–90; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 3853–9]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 23, 1990.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: NSPS for Volatile Organic Liquid Storage Vessels (Subpart K). (ICR #1132.03; OMB #2060–0074). This is a reinstatement of a previously approved collection.

Abstract: Owners or operators of volatile organic liquid (VOL) storage vessels with a storage capacity greater than, or equal to, 40 cubic meters must notify EPA of any construction, reconstructions, modifications, and repairs made to their vessels. Owners or operators must inspect the roofs and seals of each vessel prior to filling it with VOL, inspect the seals yearly, repair any defects found on the seals within 45 days, and they must also inspect the tank and seals when the tank is emptied and degassed. Owners or operators must measure gaps between the tank wall and the primary and secondary seals during the initial testing of the vessel, and, when necessary, make the proper repairs within 45 days. Owners or operators must record the results of all these tests and repairs, and must retain such records for two years. EPA uses these data to ensure compliance with the standards.

Burden statement: The annual public burden for this collection of information is estimated to average 9 hours per notification, and 2 hours per recordkeeper. This estimate includes the time needed to review instructions, search existing data sources, gather the

data needed and review the collection of information.

Respondents: Owners and operators of VOL storage vessels.

Estimated no. of respondents: 857.

Estimated no. of responses per respondent: 6.

Estimated total annual burden on respondents: 47,718 hours.

Frequency of collection: Initial notification and on occasion.

Send comments regarding the burden estimates, or any other aspect of the information collection, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch, 401 M Street, SW., Washington, DC 20460

and

Nicolas Garcia, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

Dated: October 11, 1990.

Paul Lapsley,

Director, Regulatory Management Division.

[FR Doc. 90-25030 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3854-2]

Contractor Access to Confidential Business Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized its contractor, Research and Evaluation Associates, Inc. (REA), of Chapel Hill, North Carolina, for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended. Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATE: October 1, 1990.

FOR FURTHER INFORMATION CONTACT: Gene W. Smith, Document Control Officer, Office of Air Quality Planning and Standards (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5439.

SUPPLEMENTARY INFORMATION: Under contract number 68-DO-0063, the contractor, REA, 100 Europa Drive, suite 590, Chapel Hill, North Carolina, will assist the Office of Air Quality Planning and Standards (OAQPS) in designing and implementing a system for the handling, tracking, and safeguarding of CBI gathered under the CAA projects.

In accordance with 40 CFR 2.305(h), EPA has determined that REA requires access to CBI submitted to EPA under section 114 of the CAA in order to perform work satisfactorily under the above noted contract. The REA personnel will be given access to all information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The EPA is issuing this notice to inform all submitters of information under section 114 of the CCA that EPA may provide REA access to these materials on a need-to-know basis. The REA personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All access to CAA CBI under this contract will take place at EPA facilities.

Clearance for access to CAA CBI under this contract is scheduled to expire on September 30, 1994.

Dated: October 17, 1990.

Michael Shapiro,

Assistant Administrator for Air and Radiation.

[FR Doc. 90-25028 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3853-8]

Open Meeting of the International Environmental Technology Transfer Advisory Board

Under Public Law 92-463, notice is hereby given that a meeting of the International Environmental Technology Transfer Advisory Board (IETTAB) will be held on November 13, 1990 in the Board room of the ASAE Building, 1575 Eye Street, NW., Washington, DC. The meeting is open to the public and will run from 9 a.m. until approximately 12 p.m. The purpose of this meeting is to discuss a final report.

Public comments can be made through written statements which will be distributed to Board members. Written statements must be sent in care of the Executive Secretary listed below no later than November 6, 1990, in order to distribute to Board members before the meeting time. Seating for interested members of the public is limited to seventy seats. Seats will be filled on a first-come basis. To confirm your interest in attending, contact the Executive Secretary by November 6, 1990.

FOR FURTHER INFORMATION CONTACT: Mark Kasman, Executive Secretary, Office of International Activities (A-106), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-7424.

Dated: October 2, 1990.

Terry Davies,

Assistant Administrator for International Activities.

[FR Doc. 90-25031 Filed 10-22-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Collection withhout OMB Approval.

Title: Application for National Warning System Service.

Abstract: Federal agencies, Military, State and local governments responsible for Civil Defense warning in their purview will apply in writing for the National Warning System Service (NAWAS) as instructed. Information is used to evaluate request for approval/disapproval of NAWAS service.

Type of Respondents: Federal agencies and State or local governments.

Estimate of Total Annual Reporting and Recordkeeping Burden: 50.

Number of Respondents: 50.

Estimated Average Burden Hours Per Response: 1.

Frequency of Response: Other; once.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Borror (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to: the FEMA Clearance Officer at the above address; and to Gary Waxman, (202) 395-7340, Office of Management and Budget, 3235 New Executive Office Building, Washington, DC 20503 within four weeks of this notice.

Date: October 10, 1990.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 90-25016 Filed 10-22-90; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL RESERVE SYSTEM

Creditanstalt-Bankverein Vienna, Austria; Application To Engage in Private Placement Activities

Creditanstalt-Bankverein, Vienna, Austria ("Creditanstalt"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (the "BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), for prior approval to engage through its wholly-owned subsidiary, Creditanstalt International Advisers, Inc., New York, New York ("Advisers"), in acting as agent for issuers in the private placement of all types of securities, and providing related advisory services. Company would conduct the proposed activities on a domestic and international basis.

The Board has previously authorized Advisers to engage in the following activities: (1) Providing investment advisory and securities brokerage services on a combined basis ("full-service brokerage"); (2) engaging in brokerage services separately; (3) buying and selling all types of securities on the order of investors as a "riskless principal;" and (4) providing corporate financial advisory services. *See Creditanstalt-Bankverein*, 76 Federal Reserve Bulletin 761 (1990).

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with prior Board approval, engage directly or indirectly in any activities "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto."

The Board has previously determined that, subject to certain conditions, acting as agent for issuers in the private placement of all types of securities, including the provision of related advisory services, is generally permissible for bank holding companies. *J.P. Morgan & Company Incorporated*, 76 Federal Reserve Bulletin 26 (1990) (*"Morgan"*); *Bankers Trust New York Corporation*, 75 Federal Reserve Bulletin 829 (1989) (*"Bankers Trust"*).

Creditanstalt has proposed to act as agent in the private placement of all types of securities, using the same methods and procedures and subject to the prudential limitations established in the *Bankers Trust* and *Morgan* Orders, as modified to reflect Creditanstalt's status as a foreign banking organization, in accordance with prior Board orders (*Canadian Imperial Bank of Commerce, The Royal Bank of Canada*, and *Barclays PLC*, & 76 Federal Reserve Bulletin 158 (1990); *see also The Toronto-Dominion Bank*, 76 Federal Reserve Bulletin 573 (1990)), and as modified to reflect the fact that Creditanstalt is not proposing to engage in any securities underwriting or dealing activities. *See The Royal Bank of Scotland Group plC*, 76 Federal Reserve Bulletin 866 (1990).

In determining whether an activity is a proper incident to banking, the Board must consider whether the proposal may "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." 23 U.S.C. 1843(c)(8). Creditanstalt contends that permitting it to engage in the proposed activities would result in increased competition, greater convenience to customers, and increased efficiency in the provision of financial services. Moreover, Creditanstalt believes that the proposed activities will not result in any unsound banking practices or other adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act or the Glass-Steagall Act.

Any comments or requests for a hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than November 15, 1990. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, October 17, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-24996 Filed 10-22-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Report of the "Tar," Nicotine, and Carbon Monoxide Content of 370 Varieties of Domestic Cigarettes

ACTION: Notice.

SUMMARY: The Federal Trade Commission publishes the Report of the "Tar," Nicotine, and Carbon Monoxide Content of 370 Varieties of Domestic Cigarettes.

DATE: October 23, 1990.

ADDRESSES: Copies of the full report are available from the FTC's Public Reference Branch, room 130, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326-3222.

FOR FURTHER INFORMATION CONTACT: Joanna Crane-Murray, Bureau of Consumer Protection, at the address given above, telephone (202) 326-3256.

SUPPLEMENTARY INFORMATION: These are the most recent test results of the "tar," nicotine, and carbon monoxide levels of the smoke of domestic cigarettes reported by the FTC. The Tobacco Institute Testing Laboratory, (TITL), a private laboratory operated by the cigarette industry, conducted the "tar," nicotine, and carbon monoxide testing for the widely-available domestic cigarette varieties. This testing was conducted under the supervision of a representative of the FTC. TITL provided the results to the respective cigarette companies. The companies provided the data generated by TITL regarding their own brands to the FTC in response to compulsory process issued by the Commission. Cigarette smoke from generic-priced, private label, and not-widely-available cigarettes was not tested by TITL, but was tested by the cigarette companies and provided under compulsory process to the FTC. The methodology, processes and procedures that the companies and TITL employed are identical to those the Commission has followed in the past.

By Direction of the Commission.

Donald S. Clark,

Secretary.

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Alpine	King, Men, F, SP	17	1.1	16
Alpine*	100, Men, F, SP	15	1.1	15
Alpine*	King, Men, SP, Lt	09	0.7	11
Alpine*	100, Men, F, SP, Lt	10	0.8	11
Alpine*	Long, Men, F, HP, Full-Fla	15	0.9	15
Alpine*	Long, Men, F, HP, Lt	9	0.6	10
American Filter*	100, F, SP	17	1.2	15
American Filter*	King, F, SP	17	1.2	14
American Lights	100, F, SP, Lt	13	1.1	14
American Lights	King, F, SP	12	0.9	13
Austin*	King, F, SP	15	1.0	16
Austin*	100, F, SP, Full-Fla	15	1.0	17
Austin*	Lt, King, F, SP	10	0.7	11
Austin*	Lt, 100, F, SP	11	0.8	12
Austin*	Ultra-Lt, 100, F, SP	5	0.5	9
Austin*	Lt, Men, King, F, SP	10	0.7	13
Austin*	Lt, 100, Men, F, SP	10	0.8	12
Belair	SP, F, King, Men	11	0.8	10
Belair	100, F, SP, Men	9	0.7	9
Benson and Hedges	King, F, HP	15	1.3	13
Benson and Hedges*	Lt, 100, F, HP	11	0.8	12
Benson and Hedges*	Lt, 100, F, Men, HP	10	0.8	11
Benson and Hedges	100, F, SP	17	1.2	16
Benson and Hedges	F, HP, 100	17	1.2	17
Benson and Hedges	100, Men, F, HP	17	1.2	17
Benson and Hedges	Men, 100, SP, F	17	1.2	16
Benson and Hedges	100, Lt, F, SP	11	0.8	13
Benson and Hedges	100, Lt, Men, SP	11	0.8	12
Benson and Hedges	Dlx, Ultra-Lt, F, HP, 100	5	0.4	6
Benson and Hedges	Dlx, Ultra-Lt, Men, F, HP, 100	5	0.5	6
Benson and Hedges	King, F, SP, Multifilter	11	0.8	11
Benson and Hedges*	Lt, 100, F, Men, HP	10	0.8	11
Best Buy**	King, F, Ful-Fla, SP	15	1.0	00
Best Buy**	100, F, Ful-Fla, SP	15	1.0	00
Best Buy**	Lt, King, F, SP	10	0.7	00
Best Buy**	Lt, King, F, Men, SP	10	0.7	00
Best Buy**	Lt, 100, F, SP	10	0.7	00
Best Buy**	Lt, 100, F, Men, SP	11	0.8	00
Best Buy**	Ultra-Lt, King, F, SP	6	0.5	00
Best Buy**	Ultra-Lt, 100, F, SP	7	0.5	00
Best Buy**	King, NF, SP	24	1.6	00
Best Value**	Full Flavor, King, F, SP	15	1.0	16
Best Value**	100, Full Flavor, F, SP	15	1.0	17
Best Value**	Lt, King, F, SP	11	0.7	11
Best Value**	Lt, 100, F, SP	11	0.8	12
Best Value**	Ultra, Lt, 100, F, SP	5	0.5	9
Best Value**	Lt, Men, King, F, SP	10	0.7	13
Best Value**	Lt, Men, 100, F, SP	10	0.8	12
Bright	100, F, SP, Men	6	0.4	10
Cambridge	100, F, SP, Ultra	5	0.4	7
Cambridge	Lt, King, SP, F	12	0.8	13
Cambridge	Lt, King, Men, F, SP	12	0.8	12
Cambridge	Lt, 100, F, SP	12	0.9	15
Cambridge	Lt, 100, Men, F, SP	12	0.9	15
Cambridge	Full-Fla, King, F, SP	17	1.1	16
Cambridge	Full-Fla, 100, F, SP	17	1.2	16
Camel	Reg, NF, SP	22	1.4	14
Camel	F, King, SP	16	1.0	15
Camel	HP, F, King	17	1.1	17
Camel	100, F, SP	18	1.1	19
Camel	Lt, HP, F, King,	10	0.6	12
Camel	Lt, F, King, SP	9	0.6	11
Camel	Lt, 100, F, SP	11	0.8	15
Capri	100, F, HP	9	0.8	6
Capri	Men, 100, F, HP	9	0.7	6
Capri*	120, HP, F	14	1.1	9
Capri*	120, F, HP, Men	12	0.9	6
Carlton	F, SP, 120	6	0.6	6
Carlton	F, SP, King	1	0.1	2
Carlton	Men, SP, 120, F	6	0.6	5
Carlton	Men, SP, King, F	1	0.1	1
Carlton	F, HP, King	1	0.1	2
Carlton	F, HP, 100	1	0.1	1
Carlton	F, SP, 100	3	0.3	5
Carlton	Men, HP, 100, F	1	0.1	1
Carlton	Men, SP, 100, F	5	0.4	6
Carlton*	Ultra, King, F, HP	<0.5	<0.05	<0.5
Century	F, King, SP, 25	15	1.0	18
Century	Lt, F, King, SP, 25	10	0.7	12
Century	100, F, SP, 25	18	1.1	21

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Century	Lt, 100, F, SP, 25	12	0.9	13
Century	Lt, 100, F, SP, Men, 25	11	0.8	14
Chesterfield	Reg, NF, SP	20	1.3	13
Chesterfield	NF, King, SP	24	1.6	15
Chesterfield*	Lt, King, F, SP	10	1.0	11
Chesterfield*	Lt, 100, F, SP	11	1.1	11
Convoy*	King, Lt, F, SP	14	1.1	13
Cost Cutter**	Full Flavor, King, F, SP	15	1.0	16
Cost Cutter**	Full Flavor, 100, F, SP	15	1.0	17
Cost Cutter**	Lt, King, F, SP	11	0.7	11
Cost Cutter**	Lt, 100, F, SP	11	0.9	12
Cost Cutter**	Ultra Lt, 100, F, SP	5	0.5	9
Cost Cutter**	Lt, Men, King, F, SP	10	0.7	13
Cost Cutter**	Lt, Men, 100, F, SP	10	0.8	12
Doral	Lt, F, King, SP	12	0.7	15
Doral	Lt, Men, F, King, SP	12	0.6	14
Doral	Lt, F, 100, SP	11	0.7	13
Doral	Lt, F, 100, Men, SP	12	0.7	14
Doral	F, King, Full-Fla, SP	17	0.9	20
Doral	100, F, Full-Fla, SP	15	0.8	17
Doral	Ultra-Lt, 100, F, SP	7	0.5	12
Doral*	Full-Fla, Men, King, SP, F	15	1.1	18
Doral*	Full Fla, Men, 100, F, SP	15	1.1	18
English Oval	King, NF, HP	24	1.8	16
Eve	Lt, HP, 120, F	13	1.1	12
Eve	Lt, Men, HP, 120, F	13	1.2	12
Eve*	Lt, Men, SP, 120, F	13	1.1	12
Eve	Slim-Lt, F, Men, 100, HP	13	1.0	11
Eve	Slim-Lt, F, 100, HP	13	1.0	11
Eve*	Ultra-Lt, 120, HP, F	6	0.7	4
Eve*	Ultra-Lt, 120, HP, F, Men	6	0.7	4
F&L**	King, F, HP	10	0.7	00
F&L**	Ultra-Lt, 100, SP	7	0.5	00
F&L**	King, F, Men, SP	11	0.7	00
F&L**	Lt, King, F, SP	10	0.7	00
F&L**	Lt, 100, F, SP	10	0.7	00
F&L**	Lt, 100, F, Men, SP	11	0.8	00
Falcon	Lt, King, F, SP	11	0.8	11
Falcon	Men, Lt, King, F, SP	10	0.8	12
Falcon	Lt, 100, F, SP	12	0.9	15
Falcon	Men, Lt, 100, F, SP	9	0.7	11
Famous Value**	King, F, SP	15	1.0	00
Famous Value**	Lt, King, F, SP	10	0.7	00
Famous Value**	Lt, King, F, Men, SP	11	0.7	00
Famous Value**	100, F, SP	15	1.0	00
Famous Value**	Lt, 100, F, SP	10	0.7	00
Famous Value**	Lt, 100, F, Men, SP	11	0.8	00
Famous Value**	Ultra-Lt, King, F, SP	6	0.5	00
Famous Value**	Ultra-Lt, 100, F, SP	7	0.5	00
Famous Value**	King, NF, SP	24	1.6	00
Golden Lights	Lt, King, F, SP	8	0.7	10
Golden Lights	Lt, Men, King, F, SP	8	0.8	9
Golden Lights	Lt, Men, 100, F, SP	9	0.8	10
Golden Lights	Lt, 100, F, SP	10	0.9	11
Golden Lights	Lt, King, F, HP	9	0.8	10
Golden Lights	Lt, 100, F, HP, Dlx	10	0.9	11
Gridlock**	King, NF, SP	24	1.6	00
Gridlock**	King, Ful-Fla, F, SP	15	1.0	00
Gridlock**	Lt, 100, F, SP	10	0.7	00
Gridlock**	Ultra-Lt, 100, F, SP	7	0.5	00
Harley Davidson	F, King, SP	14	1.0	16
Herbert Tareyton	King, NF, SP	25	1.6	18
Hi-Lite	100, F, HP	14	1.0	15
Kent	HP, King, F	11	0.9	13
Kent	King, F, SP	12	0.9	14
Kent	100, F, SP	14	1.0	15
Kent	Men, 100, F, SP	14	1.0	14
Kent	III, King, F, SP	3	0.3	4
Kent	III, 100, Plain, F, SP	5	0.4	7
Kent	III, 100, F, HP	5	0.5	7
Kool	King, Men, F, SP	17	1.1	17
Kool	Men, 100, F, SP	17	1.2	17
Kool	King, Men, F, HP	16	1.1	16
Kool	Reg, NF, SP, Men	22	1.4	14
Kool	Lt, King, F, SP, Men	8	0.7	9
Kool	Lt, 100, F, Men, SP	9	0.7	10
Kool	Mild, King, F, Men, SP	12	0.9	13
Kool	Mild, King, F, Men, HP	12	0.9	11
Kool	Mild, 100, F, Men, SP	12	1.0	13
L and M	100, F, SP, 10-PK, 30	13	1.1	11

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
L and M	Long, Lt, SP, F, 100	8	0.8	6
L and M	F, King, SP	14	1.1	13
L and M*	HP, F, King, HP	14	1.1	13
L and M	Super, King, 100, F, SP	14	1.1	14
L and M*	Superior, King, SP, F	14	1.1	14
Lark	Lt, F, King, SP	13	1.0	13
Lark	Lt, F, 100, SP	14	1.1	15
Lark	King, F, SP	14	1.1	13
Lark	Lt, Extra Long, SP, 100, F	15	1.2	14
Lucky Strike	Reg, NF, SP	24	1.5	16
Lucky Strike	King, F, SP	12	0.9	13
Lucky Strike	King, F, HP	12	0.9	13
Lucky Strike	F, 100, SP	12	1.0	13
Lucky Strike	Lt, King, F, SP	8	0.7	10
Lucky Strike	Lt, 100, F, SP	9	0.7	10
Lucky Strike	Men, 100, F, SP	12	1.0	12
Magna	Lt, King, F, SP	9	0.6	14
Magna	King, F, SP	14	0.9	15
Magna	King, F, HP	14	0.9	16
Malibu	100, F, SP	14	1.1	13
Malibu	100, F, Lt, SP	9	0.8	11
Malibu	100, Men, SP, F	12	0.9	13
Malibu	King, F, SP	16	1.2	14
Malibu	King, F, Lt, SP	10	0.8	11
Malibu	King, F, Men, SP	17	1.2	15
Marlboro	King, F, HP	17	1.1	15
Marlboro	King, F, SP	17	1.2	17
Marlboro	Men, King, F, SP	17	1.2	15
Marlboro	SP, 100, F	17	1.2	16
Marlboro	HP, 100, F	17	1.2	17
Marlboro	Lt, King, F, SP	11	0.8	12
Marlboro	Lt, King, F, SP, 25	11	0.8	12
Marlboro	Lt, King, F, HP	11	0.8	12
Marlboro	Lt, 100, F, SP	11	0.8	13
Marlboro	Lt, King, Men, F, SP	10	0.8	10
Marlboro	King, F, SP, 25	17	1.1	16
Marlboro	Lt, 100, F, HP	11	0.8	12
Marlboro	Lt, 100, Men, F, SP	11	0.9	12
Marlboro	Lt, 100, Men, HP	10	0.8	11
Marlboro	Lt, King, Men, HP	10	0.8	11
Max	F, 120, SP	17	1.3	18
Max	Men, 120, F, SP	17	1.4	17
Merit	King, F, SP	8	0.6	10
Merit	Men, King, F, SP	8	0.6	10
Merit	100, F, SP	10	0.8	12
Merit	100, Men, F, SP	10	0.8	12
Merit	King, HP, F	8	0.6	10
Merit	Ultra-Lt, King, F, SP	4	0.4	6
Merit	100, F, SP, Ultra-Lt	5	0.5	7
Merit	Ultra-Lt, Men, King, F, SP	5	0.4	6
Merit	100, Men, F, SP, Ultra-Lt	6	0.5	8
Merit*	Men, King, F, HP	9	0.7	9
Merit*	Ultra-Lt, King, F, HP	5	0.4	5
Merit*	Ultra-Lt, 100, F, HP	6	0.6	6
Merit*	Long, F, HP	9	0.7	10
More	120, F, SP	16	1.2	22
More	Men, 120, F, SP	17	1.3	22
More	Lt, 100, F, HP	10	0.8	11
More	Lt, Men, 100, F, HP	9	0.7	10
More	Lt, 120, F, SP	13	1.0	20
More	Lt, 120, Men, F, SP	12	1.0	20
Newport	King, Men, F, SP	17	1.3	18
Newport	King, Men, F, SP, 25	17	1.3	18
Newport	100, Men, F, SP	19	1.5	19
Newport	100, Men, F, SP, 25	19	1.5	20
Newport	HP, Men, F, King	16	1.2	16
Newport	Lt, F, King, Men, SP	8	0.7	9
Newport	Lt, 100, F, Men, SP	9	0.8	10
Newport	Lt, HP, King, F, Men	9	0.7	10
Newport	Men, 100, F, HP	19	1.5	19
Newport	Lt, Men, 100, HP, F	9	0.8	10
Newport	Stripe, Slim, Lt, F, 100, HP	9	0.8	11
Newport	Stripe, 100, F, HP	12	0.9	17
Newport	Stripe, Men, 100, F, HP	12	0.9	16
No Frills**	Lt, King, Men, SP	11	0.7	00
No Frills**	Lt, 100, SP	10	0.7	00
No Frills**	Ultra-Lt, 100, SP	7	0.5	00
Now	100, F, SP	2	0.2	3
Now	F, King, SP	1	0.1	2
Now	HP, F, King	<0.5	<0.05	<0.5

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Now	HP, 100, F	<0.5	<0.05	<0.5
Now	Men, 100, F, SP	2	0.3	4
Now	Men, F, King, SP	1	0.1	2
Old Gold	SP, F, King	17	1.2	18
Old Gold	SP, F, 100	20	1.5	20
Old Gold	SP, Straight, King, NF	27	1.9	19
Old Gold	SP, Lt, F, King	9	0.8	11
Old Gold	SP, Lt, F, 100	12	0.9	17
P.M. Blues*	100, F, SP, Men	16	1.2	16
P.M. Blues*	King, F, SP, Men	17	1.2	16
Pall Mall	King, NF, SP	25	1.6	17
Pall Mall	King, NF, SP, 25	25	1.6	17
Pall Mall	Lt, 100, F, SP	10	0.8	12
Pall Mall	F, 100, SP	17	1.3	17
Pall Mall	Lt, King, NF, SP	16	1.1	00
Pall Mall	Lt, 100, Men, F, SP	13	1.1	13
Pall Mall	F, King, Low-Tar, SP, Red	14	1.0	13
Pall Mall	F, 100, Low-Tar, SP, Red	14	1.1	14
Pall Mall	Lt, King, F, SP, Red	10	0.8	11
Pall Mall	Lt, 100, F, SP, Red	11	0.9	12
Parliament	Lt, King, F, HP	9	0.7	10
Parliament	Lt, F, King, SP	9	0.7	10
Parliament	Lt, 100, F, SP	12	0.9	13
Philip Morris	Commander, King, NF, SP	26	1.6	16
Philip Morris*	Reg, NF, SP	23	1.3	13
Philip Morris	Intl, 100, F, HP	17	1.1	16
Philip Morris	Intl, Men, 100, F, HP	17	1.1	16
Picayune*	NF, Reg, SP	18	1.2	10
Players	Reg, NF, HP	25	1.7	16
Players	King, F, HP	12	0.8	12
Players	King, F, Men, HP	12	0.8	12
Players	100, F, HP	14	1.0	13
Players	100, F, Men, HP	14	1.0	13
Players*	Lt, King, F, SP	10	0.7	11
Players	Lt, King, F, Men, SP, 25	10	0.7	11
Players	Lt, 100, F, SP, 25	12	0.9	14
Players	Lt, 100, F, Men, SP, 25	11	0.8	14
Players	Lt, King, F, SP, 25	10	0.7	11
Pyramid*	King, Lt, F, SP	14	1.1	13
Pyramid*	Lt, 100, SP, F	14	1.1	14
Pyramid*	100, F, SP, Men	14	1.1	14
Pyramid*	NF, King, SP	24	1.6	15
Pyramid*	Ultra-Lt, 100, F, SP	6	0.7	5
Raleigh	King, F, SP	16	1.0	15
Raleigh	100, F, SP	16	1.0	16
Raleigh	Lt, King, F, SP	11	0.9	13
Raleigh	Lt, 100, F, SP	12	0.9	14
Raleigh	Reg, NF, SP	24	1.4	17
Richland	F, King, SP, 25	17	1.2	16
Richland	100, F, SP, 25	17	1.3	17
Richland	F, Men, King, SP, 25	16	1.1	16
Richland	100, F, SP, Men, 25	16	1.2	16
Richland	Lt, F, King, SP, 25	12	0.9	13
Richland	Lt, 100, F, SP, 25	12	0.9	14
Richland	F, King, SP	16	1.1	16
Richland	100, F, SP	17	1.2	17
Richland	Men, King, F, SP	16	1.0	16
Richland	Men, 100, F, SP	17	1.2	17
Richland	Lt, King, SP, F	12	0.9	13
Richland	Lt, 100, F, SP	12	0.9	14
Ritz	100, F, HP	10	0.8	11
Ritz	100, F, Men, HP	11	0.8	12
Royale*	Lt, King, F, SP	10	0.7	00
Royale*	Lt, King, F, Men, SP	11	0.7	00
Royale*	Lt, 100, F, SP	10	0.7	00
Royale*	Lt, 100, F, Men, SP	11	0.8	00
Salem	King, F, Men, SP	16	1.0	17
Salem	Lt, 100, F, Men, SP	9	0.7	11
Salem	Lt, King, F, Men, SP	10	0.7	13
Salem	Slim-Lt, HP, 100, F, Men	10	0.8	10
Salem	100, F, SP, Men	17	1.2	16
Salem	F, King, Men, SP, Ultra-Lt	5	0.4	8
Salem	100, F, SP, Men, Ultra-Lt	5	0.4	8
Salem	Lt, 100, Custom Case, HP, Men	11	0.9	12
Saratoga	120, F, HP	15	1.1	15
Saratoga	120, Men, F, HP	15	1.1	15
Satin 100	100, F, SP	11	1.0	13
Satin Menthol 100	Men, 100, SP	11	1.0	13
Savvy*	Lt, 100, SP, F	11	1.1	11
Savvy*	Lt, 100, Men, F, SP	11	1.1	11

"TAR," NICOTINE, AND CARBON MONOXIDE VALUES FOR 1988—Continued

Brand name	Description [1]	Tar [2]	NIC [3]	CO [4]
Savvy*	Ultra-Lt, F, SP, 100	6	0.7	5
Silva Thins	F, 100, SP	12	1.0	10
Silva Thins	Men, F, 100, SP	12	1.1	10
Silva Thins	F, 100, HP	12	1.0	13
Silva Thins	Men, F, 100, HP	11	0.9	12
Spring	Men, F, 100, SP	19	1.5	19
Stride*	Lt, F, King, SP	14	1.1	13
Stride*	Lt, F, 100, SP	14	1.1	14
Stride*	Lt, F, Men, 100, SP	14	1.1	14
Tall	F, 120, SP	20	1.6	20
Tall	Men, 120, F, SP	18	1.6	16
Tareyton	F, King, SP	14	1.0	16
Tareyton	F, 100, SP	14	1.0	17
Tareyton	Lt, F, SP	5	0.4	6
Tareyton	Long, Lt, 100, F, SP	8	0.7	9
Triumph	King, F, SP	3	0.3	4
Triumph	100, F, SP	5	0.5	7
Triumph	Men, King, F, SP	4	0.3	4
Triumph	Men, 100, F, SP	5	0.5	8
True	King, F, SP	5	0.5	6
True	Men, King, F, SP	5	0.5	6
True	Men, 100, F, SP	7	0.6	7
True	100, F, SP	7	0.6	7
Vantage	100, F, SP	9	0.6	13
Vantage	F, King, SP	11	0.8	11
Vantage	Ultra-Lt, 100, F, SP	6	0.5	9
Vantage	Ultra-Lt, F, King, SP	6	0.5	8
Vantage	Men, F, King, SP	10	0.7	13
Vantage	Men, 100, F, SP	8	0.6	13
Viceroy	King, F, SP	15	1.0	15
Viceroy	100, F, SP	16	1.1	15
Viceroy	Lt, F, King, SP	11	0.9	13
Viceroy	Lt, F, 100, SP	12	0.9	14
Virginia Slims	Slim, F, SP, 100	15	1.1	14
Virginia Slims	Slim, Men, 100, F, SP	15	1.1	14
Virginia Slims	Slim-Lt, 100, HP, F	9	0.7	9
Virginia Slims	Slim-Lt, HP, Men, 100, F	9	0.7	9
Virginia Slims	Slim-Lt, HP, 120, F	15	1.1	15
Virginia Slims	Slim-Lt, HP, Men, 120, F	15	1.1	15
Virginia Slims*	Ultra-Lt, 100, F, HP	6	0.5	7
Virginia Slims*	Ultra-Lt, Men, 100, F, HP	6	0.5	7
Winston	100, F, SP	17	1.1	19
Winston	King, F, SP	17	1.1	16
Winston	HP, F, King	17	1.1	17
Winston	Lt, 100, F, SP	11	0.8	13
Winston	Lt, F, King, SP	11	0.8	13
Winston	Lt, 100, F, HP	10	0.7	12
Winston	Ultra-Lt, 100, F, SP	5	0.5	9
Winston	Ultra-Lt, F, King, SP	5	0.5	8
Winston	Lt, HP, F, King	10	0.6	12

*New brands or brands not widely available in the marketplace: data supplied by the company.
**Private label cigarettes: data supplied by the company.
[1] F-Filter; NF-Non Filter; M-Menthol; HP-Hard Pack; SP-Soft Pack; Reg-Regular (70mm); K-King Size (80–85mm); 100 & 120 are in millimeters per cigarette; Lt-Light; FLA-Flavor; DLX-Deluxe; 25-Number of cigarettes per pack if other than 20.
[2] Tar: Total particulate matter in milligrams per cigarette less nicotine and water.
[3] NIC: Total alkaloids reported as milligrams of nicotine per cigarette.
[4] CO: Carbon monoxide reported in milligrams per cigarette. "00" entered where CO data was not available.
<: (less than) below the sensitivity of the testing method.

[FR Doc. 90–24998 Filed 10–22–90; 8:45 am]
BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Human Development Services; Statement of Organization, Functions, and Delegations of Authority

This Notice amends Part D of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services, Office of Human Development Services as follows: Chapter DC, Administration for Children, Youth and Families (ACYF) (49 FR 17593), as last amended July 7, 1988. This reorganization would transfer the operational functions of The National Center on Child Abuse and Neglect (NCCAN) from the Children's Bureau to the Immediate Office of the Commissioner, ACYF. The Children's Bureau will eliminate two office titles, the National Center on Child Abuse and Neglect and Office of Discretionary Grant Programs and the Office of State Welfare Grants and will be restructured with the four remaining Divisions: Program Support Division, Program Operations Division, Formula Grants Division and the Financial Operations Review Division.

1. Amends Chapter DC, Office of Human Development Services, DC.00 "Mission: The Administration for Children, Youth and Families (ACYF), by deleting paragraph 2 and replacing it with the following:

Administers State grant programs under title IV–B, IV–E and title IV–A

Foster Care of the Social Security Act. Manages the Adoption Opportunities program. Administers discretionary grant programs and other provisions of the Head Start Act and of the Runaway and Homeless Youth Act. Administers the provisions of Public Law 100–690, title III, chapters 1 and 2 of the Anti-Drug Abuse Act. Administers the Child Abuse Prevention and Treatment Act, as amended, and the Child Abuse Prevention Challenge Grants Reauthorization Act. Administers discretionary grant programs under title II, section 201–207 of the Children's Justice and Assistance Act and those under the provisions of the Abandoned Infants Assistance Act. Supports and encourages services which prevent or remedy the effects of abuse and/or neglect of children and youth. Manages the National Center on Child Abuse and Neglect, including the National Clearinghouse and the Child Abuse and Neglect State and discretionary grant programs. Provides staff support to the activities of the Advisory Board on Child Abuse and Neglect.

2. Amends Chapter DC, Office of Human Development Services, DC.10 "Organization. The Administration for Children, Youth and Families" by deleting paragraphs 2 and 3 and replacing it with:

Children's Bureau: Program Support Division, Financial Operations Review Division, Formula Grants Division, Program Operations Division. Family and Youth Services Bureau: Program Operations Division, Program Support Division. The National Center on Child Abuse and Neglect: Program Policy and Planning Division, Clearinghouse Division.

3. Amends Chapter DC, Office of Human Development Services, DC 20 "Functions": A. The Immediate Office of the Commissioner by deleting it in its entirety and replacing it with the following:

DC.20 Functions. A. The Immediate Office of the Commissioner serves as the principal advisor to the Assistant Secretary for Human Development Services, the Secretary of Health and Human Services, and other elements of the Department in the areas of children, youth, and families. Provides executive direction and management strategy to Administration for Children, Youth and Families' component units. Staff of the Office of the Commissioner provides general staff support for the Advisory Board on Child Abuse and Neglect. Staff provides results of studies, research, or analyses of various matters affecting child abuse and neglect for the Board to use in its deliberations and recommendations. Assists the Board in preparing and submitting to the Secretary and appropriate Committees of Congress an annual report which contains recommendations on ways in which the purposes of the Child Abuse Prevention and Treatment Act can most effectively be achieved. Works with other Federal, State, and local governmental and national and sub-national private sector organizations to assure that Board recommendations accepted by the Secretary and/or the Congress are implemented. Makes arrangements for all meetings and hearings of the Board. The Deputy Commissioner acts as Commissioner in the absence of the Commissioner.

4. Amends Chapter DC, Office of Human Development Services, DC.20 "Functions". D.I National Center on Child Abuse and Neglect and Office of Discretionary Grant Programs by deleting it in its entirety and replacing it with the following:

D.I. Program Support Division manages the Title IV–B Child Welfare Training Program and the Adoption Opportunities Program. Provides technical expertise in specific, substantive program areas for developing programmatic policies, standards, model laws, regulations and guidelines for child welfare services. Provides expert advice and assistance to a broad array of public and private agencies in these areas. Develops areas for research, demonstration, and evaluation activities to investigate the current status of child welfare practices and to improve the quality and levels of service provided to children, including abandoned infants. Manages discretionary projects assigned to the Bureau which are related to child welfare services and related areas. Reviews current practices and problems: recommends action to meet special needs of children at risk and promotes successful models.

Develops and implements training and technical assistance plans. Analyzes regional child welfare services' training and technical assistance reports and provides technical guidance to the regional offices. Develops model curricula and other materials for training persons engaged in child welfare programs.

(1) Assistance Branch

Acts as the principal focus within the Program Support Division for developing and implementing policies, advice and plans on identifying and diagnosing children and families who need child welfare assistance including improving and upgrading services to children and families in their own homes, services for children and families in need of emergency care; services to children in need of substitute care (with foster families or in institutions or group homes): And services relating to restoration of children with their families and permanency planning.

(2) Adoption Opportunities Branch

Acts as the principal focus within the Division for development of policies, advice and plans on programs relating to the improvement of adoption services, especially those for children with special needs. Provides technical expertise in developing programmatic policies, standards, model laws, regulatory material and guidelines for improving adoption services. Provides expert knowledge, training and technical assistance to a broad array of public and private social service agencies in improvement of adoption services.

Develops and manages the Adoption Opportunities Program (Title II of the Child Abuse Prevention and Treatment and Adoption Reform Act) to facilitate the elimination of barriers to adoption and to provide permanent homes for children who would benefit by adoption. Develops model adoption legislation and procedures and provides training and technical assistance in their use by States: develops and manages a national adoption information exchange system, including the operation of a national adoption exchange: develops, manages and monitors a training and technical assistance program to promote quality standards and services in the adoption of children with special needs.

Develops training and technical assistance objectives and program guidance for the Regional Offices in the improvement of adoption services. Identifies, develops, demonstrates and disseminates training curricula and technical assistance materials for persons providing adoption services. Recommends areas for research, demonstration and evaluation activities. Manages assigned discretionary projects.

5. Amends Chapter DC, Office of Human Development Services. DC 20 "Functions": D.2. Office of Child Welfare State Grants by deleting it in its entirety and replacing it with:

D.2. Program Operations Division generates policies and procedures for developing State child welfare program plans authorized under titles IV–B and IV–E of the Social Security Act including child welfare services, foster care and adoption assistance: develops and interprets regulations, guidelines, and instructions. Coordinates child welfare

services with other Federal agencies and non-Federal groups.

Provides technical direction on administration of state grant programs. Advises Regional Offices on recommendation for disapproval of State plans or amendments.

(1) Implementation Branch

Performs reviews for eligibility of funds under section 427, Public Law 96–272 and program reviews when required: develops compliance review procedures and reviews compliance of State plans and expenditures with the requirements and makes recommendations to the Associate Commissioner: Prepares appropriate orientation materials for regional offices and States; assists or prepares regional orientation plans; analyzes and, in conjunction with regional offices, collects child welfare services program data; formulates and implements the Division's planning strategy including the development of the annual operational plan; and engages in joint program planning with States.

(2) Policy Branch

Develops policies and procedures for developing State plans for title IV–E and the Child Welfare Program authorized under title IV–B of the Social Security Act; develops and interprets regulations, guidelines and instructions under titles IV–B and IV–E of that Act and Public Law 96–272; interprets questions of State implementation; assists regional office technical assistance activities to meet requirements for State grants; coordinates child welfare services with other Federal agencies and non-Federal groups; analyzes regional offices monitoring and training and technical assistance reports; and provides program technical direction to regional offices.

D.3. Formula Grants Division develops and interprets program specific fiscal regulations, guidelines and instructions for the management of formula grant and entitlement programs including Child Welfare Services, Foster Care, and Adoption Assistance. Provides technical guidance to the regional offices in all fiscal aspects of these programs and develops procedures for the regional offices to use in acting on requests for funds.

Develops the annual funding allocations and quarterly financial plans, reviews all States estimates of need. Prepares quarterly State grants for award, makes adjustments to State funding plans as required.

Makes financial adjustments associated with deferral and disallowance actions. Provides technical expertise to the regional offices in the development of these actions. Processes all these actions in concert with the Office of Management Services/Division of Grants and Contracts Management.

Manages technical and procedural activities incident to audit questions and appeals. Provides technical assistance to the Department of Health and Human Services Inspector General in developing comprehensive audit techniques for these programs, including sampling and review methodology. Takes part in audits of State programs. Designs audit plans to meet special circumstances.

Provides technical advice on regulations, guidelines, and fiscal practices to Office of General Counsel in all related audit appeals being heard by the DHHS Grants Appeals Board. Provides technical assistance on issues affecting ACYF formula and entitlement programs to staff of the Assistant Secretary for Legislation and for the Assistant Secretary for Management and Budget.

D.4. Financial Operations Review Division arranges for and participates in financial reviews of State Child Welfare Services, Foster Care and Adoption Assistance grant operations. This requires coordination with Regional Administrators, and includes developing and refining procedures, establishing standards and criteria, and training Regional and Central Office Staff in conducting regular on-site financial reviews.

Coordinates and consults as appropriate and necessary, with the Commissioner, ACYF, Staff Office Directors, and Regional Administrators in organizing, assigning staff, conducting the reviews and analyzing review findings.

Analyze and review results for consistency in application and operation, and make recommendations to the Commissioner, ACYF, on policies and procedural improvements.

Assists OGC with cases appealed to the Departmental Appeals Board as a result of the financial reviews.

6. Amends Chapter DC, Office of Human Development Services, DC 20 "Functions" by adding the following:

F. National Center on Child Abuse and Neglect serves as the principal advisor to the Commissioner in matters related to child abuse and neglect. Recommends legislative and budgetary proposals, operational planning system objectives and initiatives, and projects and issue areas for evaluation, research, and demonstration activities. Represents ACYF in initiating and implementing inter-agency activities and projects effecting children that are abused or neglected. Provides leadership and coordination for the program, activities, and subordinate units of the center.

Provides staff support for the activities of the Inter-Agency Task Force on Child Abuse and Neglect. The Director, National Center on Child Abuse and Neglect serves as Chairperson of the Task Force.

F.1. Program Policy and Planning Division. In coordination with the ACYF Division of Planning, Research, and Evaluation, establishes objectives, determines priorities, develops and implements research and demonstration programs, and plans to prevent, identify and treat child abuse and neglect. Recommends evaluation activities to be performed.

With the Regional Offices, verifies eligibility and allocates funds to States found to be in compliance with the requirements of the Child Abuse Prevention and Treatment Act, and monitors State programs funded under the Act. Allocates funds to States to support activities under the Children's Justice and Assistance Act and under the Child Abuse Prevention Challenge Grants Reauthorization Act.

Plans and implements training and technical assistance activities by directly managing grants and contracts.

F.2. Clearinghouse Division. Develops, maintains and updates the Information Clearinghouse on Child Abuse and Neglect on research and demonstration projects, operating programs and other activities. Through surveys and other information collection activities provides information on a continuing basis on research and demonstration projects and operating programs, directed at preventing, identifying and treating child abuse and neglect.

Compiles, analyzes, prepares and disseminates information, publications and other materials on child abuse and neglect. Provides assistance to other government agencies, public and private service organizations and the general public concerning the availability and use of information on child abuse and neglect.

Studies the incidence of child abuse and neglect to show severity and trends and assists in the development of central registries and forms for reporting child abuse and neglect.

Dated: October 15, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 90–24943 Filed 10–22–90; 8:45 am]

BILLING CODE 4130–01–M

Agency for Health Care Policy and Research

Assessment of Medical Technology: Heart-Lung Transplantation

The Public Health Service's (PHS) Agency for Health Care Policy and Research, through the Office of Health Technology Assessment (OHTA), announces that it is performing an assessment of heart-lung transplantation for the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).

This assessment will consider: (1) The specific medical indications for which heart-lung transplantation are appropriate; (2) the types of medical evidence necessary to verify these indications; (3) the specific contraindications to heart-lung transplantation; (4) the specific institutional or team criteria which are necessary to establish acceptable standards of experience and medical care that will ensure optimum success for heart-lung transplantation; and (5) the basis for using the existing CHAMPUS heart transplantation institutional and team criteria for heart-lung transplantation.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the indications for the safety, clinical effectiveness, and appropriate uses of a technology. Based on this assessment, a PHS recommendation will be formulated to assist CHAMPUS in establishing coverage policy. The information being specifically sought in this assessment are the indications and contraindications for heart-lung transplantation as well as the appropriate selection criteria for both patients and transplant institutions.

Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than February 1, 1991 or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential in accordance with 42 U.S.C. 299a-1(c) and title IX of the Public Health Service Act, section 903(c). Please indicate as part of the response whether disclosure is acceptable.

Written material should be submitted to: Office of Health Technology Assessment, 5600 Fishers Lane, room 18–40, Rockville, MD 20857, (301) 443–4990.

Thomas V. Holohan,

Director, Office of Health Technology Assessment, Agency for Health Care Policy and Research.

[FR Doc. 90–25000 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–90–M

Assessment of Medical Technology

The Public Health Service's (PHS), Agency for Health Care Policy and Research, through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of the safety and effectiveness of single and double lung transplantation.

Information is sought as to the risks and benefits associated with the use of this mode of treatment. Information is also sought pertaining to the specific indications for which single and double lung transplantation are appropriate. We also seek information concerning that institutional or team criteria are necessary to establish acceptable standards that will ensure optimum success for these transplantation procedures.

The PHS assessment consists of a synthesis of published literature and information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety, clinical effectiveness, and appropriate uses of technology. Based on this assessment, a PHS recommendation will be formulated to assist the Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) in establishing a CHAMPUS coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use, are also being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than February 1, 1991 or within 90 days from the date of publication of this notice.

For purposes of evaluation by the interested scientific community, it is sometimes helpful to include attributions for the comments cited in OHTA assessments. In addition, information provided in response to notices such as this one are often requested by interested individuals or groups. Without a written consent to the disclosure of the source of the comments received, the identity of the source will be kept confidential, in accordance with 42 U.S.C. 299a–1(c) and the title IX of the Public Health Service Act, section 903(c). Please indicate as part of the response whether disclosure is acceptable.

Writen material should be submitted to: Director, Office of Health Technology Assessment, 5600 Fishers Lane, room 18–40, Rockville, MD 20857, (301) 443–4990.

Thomas V. Holohan,

Director, Office of Health Technology Assessment, Agency for Health Care Policy and Research.

[FR Doc. 90–24999 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–90–M

Food and Drug Administration

[Docket No. 90P–0440]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Coleman Dairy, Inc., to market test a product designated as "light eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1991.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF–414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–485–0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17

concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Coleman Dairy, Inc., 5801 Asher Ave., Little Rock, AR 72214.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 1 percent, and (2) sufficient vitamin A palmitate is added to ensure that a 4-fluid-ounce (118.5-milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent to eggnog but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "light eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "75% less fat than regular eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 32,000 quarts of the test product. The test product is to be manufactured at Coleman Dairy, Inc., Little Rock, AR 72204, and will be distributed in Arkansas, Louisiana, Mississippi, and Missouri.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1991.

Dated: October 12, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25043 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90P-0292]

Eggnog Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Marigold Foods, Inc., to test market a product designated as "lite eggnog" that deviates from the U.S. standard of identity for eggnog (21 CFR 131.170). The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product.

DATES: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1990.

FOR FURTHER INFORMATION CONTACT: Joanne Travers, Center for Food Safety and Applied Nutrition (HFF-414), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0106.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Marigold Foods, Inc., 2929 University Ave. SE., Minneapolis, MN 55414.

The permit covers limited interstate marketing tests of a product that deviates from the U.S. standard of identity for eggnog in 21 CFR 131.170 in that: (1) The fat content of the product is reduced from 6 percent to 2 percent, and (2) sufficient vitamin A palmitate is added to ensure that a 4-fluid-ounce (118.5 milliliter) serving of the product contains 8 percent of the U.S. Recommended Daily Allowance for vitamin A. The product meets all requirements of the standard with the exception of these deviations. The purpose of the variation is to offer consumers a product that is nutritionally equivalent but contains fewer calories and less fat.

For the purpose of this permit, the name of the product is "lite eggnog." The principal display panel of the label must include the statements "reduced calories" and "reduced fat" following the name. In addition, the label must bear the comparative statements "⅓ less calories" and "⅔ less fat than regular eggnog".

The product complies with the reduced calorie labeling requirements in 21 CFR 105.66(d). In accordance with FDA's current views, reduced fat food labeling is acceptable because there is at least a 50-percent reduction in the fat content of the product. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9.

This permit provides for the temporary marketing of 250,000 quarts (575 liters) of the test product. The test product is to be manufactured at Marigold Foods, Inc., Rochester Plant, 700 First Ave. SE., Rochester, MN 55901, and Marigold Foods, Inc., Kewaskum Plant, 110 First St., Box 476, Kewaskum, WI 53040, and will be distributed in Minnesota and Wisconsin.

Each of the ingredients used in the food must be stated on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but not later than January 21, 1991.

Dated: October 12, 1990.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 90-25044 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0299]

Abbott Laboratories; Premarket Approval of Abbott PgR-EIA Monoclonal

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Abbott Laboratories, Abbott Park, IL, for premarket approval, under the Medical Device amendments of 1976, of the ABBOTT PgR-EIA Monoclonal. After reviewing the recommendation of the Clinical Chemistry and Clinical Toxicology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 6, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food

and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kaiser Aziz, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1243.

SUPPLEMENTARY INFORMATION: On February 16, 1990, Abbott Laboratories, Abbott Park, IL 60064–5300, submitted to CDRH an application for premarket approval of the ABBOTT PgR–EIA Monoclonal. The ABBOTT PgR–EIA Monoclonal is indicated for the quantitative measurement of human progesterone receptor in breast tumor tissue cytosol to be used as an aid in assessing the likelihood of response to hormonal therapy, and to aid in the prognosis and management of breast cancer patients.

On June 19, 1990, the Clinical Chemistry and Clinical Toxicology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 6, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Kaiser Aziz (HFZ–440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90–25001 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 90M–0312]

AGENA Starke Gesellschaft M.B.H.; Premarket Approval of AGENASORB 9020®

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by AGENA Starke Gesellschaft m.b.H., Vienna, Austria, for premarket approval, under the Medical Device Amendments of 1976, of AGENASORB 9020®. After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 13, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Roger Barnes, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301–427–1090.

SUPPLEMENTARY INFORMATION: On November 18, 1988, AGENA Starke Gesellschaft, m.b.H., Vienna, Austria, submitted to CDRH an application for premarket approval of the AGENASORB 9020® which is indicated as a lubricating powder for surgeon's gloves. The device is an absorbable dusting powder manufactured by chemically cross-linking corn starch. The powder meets the specifications set forth in the monograph "Absorbable Dusting Powder," published by the U.S. Pharmacopeia XXII/National Formulary XVII (1990), and in the monograph "Sterilizable Maize Starch," published by the British Pharmacopeia (1988).

On April 12, 1990, the General and Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 13, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Roger Barnes (HFZ–410), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or

independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25004 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0316]

Concord/Portex, Inc.; Premarket Approval of the Trophocan™ Chorionic Villus Sampling Catheter

AGENCY: The Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Concord/Portex, Inc., Keene, NH, for premarket approval, under the Medical Device Amendments of 1976, of the Trophocan™ Chorionic Villus Sampling Catheter. After reviewing the recommendation of the Obstetrics and Gynecology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 9, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1180.

SUPPLEMENTARY INFORMATION: On April 6, 1989, Concord/Porex, Inc., Keene, NH 03431, submitted to CDRH an application for premarket approval of the Trophocan™ Chorionic Villus Sampling Catheter which is indicated for use in obtaining chorionic tissue samples for the prenatal diagnosis of genetic abnormalities during the first trimester of pregnancy (i.e., between 8 and 12 weeks gestation). On August 24, 1989, the Obstetrics and Gynecology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On August 9, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Managment Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Raju G. Kammula (HFZ-470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of he Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administraive review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's adminstrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through adminsitrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 3609j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25005 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0315]

Physiologic Diagnostic Service, Inc. (PDS); Premarket Approval of the Genesis® Home Uterine Activity Monitoring System

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Physiologic Diagnostic Service, Inc. (PDS), Atlanta, GA, for premarket approval, under the Medical Device Amendments of 1976, of the Genesis® Home Uterine Activity Monitoring System. After reviewing the recommendation of the Obstetrics and Gynecology Devices Panel, FDA's Center for Devices and Radiological Health (CRDH) notified the applicant, by letter of September 12, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1180.

SUPPLEMENTARY INFORMATION: On November 10, 1989, Physiologic Diagnostic Service, Inc., Atlanta, GA 30350, submitted to CRDH an application for premarket approval of the Genesis® Home Uterine Activity Monitoring System which is indicated for use, in conjunction with standard high risk care, for the daily at-home measurement of uterine activity in pregnancies > 24 weeks gestation for women with a history of previous preterm birth. Uterine activity data is displayed at a remote location to aid in the early detection of preterm labor (PTL) as evidenced by cervical dilation at the time of preterm labor diagnosis.

On April 4, 1990, the Obstetrics and Gynecology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 12, 1990, CRDH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CRDH.

A summary of the safety and effectiveness data on which CRDH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CRDH—contact Raju G. Kammula (HFZ-470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CRDH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CRDH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25006 Filed 10-23-90; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 90M-0319]

Boston Scientific Corp.; Premarket Approval of the Mansfield Aortic Valvuloplasty Balloon Dilatation Catheter

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Boston Scientific Corp., Watertown, MA, for premarket approval, under the Medical Device Amendments of 1976, of the Mansfield Aortic Valvuloplasty Balloon Dilatation Catheter, Models Standard Profile and Low Profile. After reviewing the recommendation of the Circulatory System Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 19, 1990, of the approval of the application.

DATES: Petitions for administrative review by November 23, 1990.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 56-00 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Tara A. Ryan, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1197.

SUPPLEMENTARY INFORMATION: On August 18, 1988, Boston Scientific Corp., Watertown, MA 02272, submitted to CDRH an application for premarket approval of the Mansfield Aortic Valvuloplasty Balloon Dilatation Catheter. The catheter is indicated for percutaneous transluminal valvuloplasty of aortic stenosis in patients who are determined to be inoperable.

On January 29, 1990, the Circulatory System Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 19, 1990, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Tara A. Ryan (HFZ-450), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for

reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at anytime on or before November 23, 1990, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 16, 1990.

Elizabeth D. Jacobson,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 90-25007 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: DALLAS DISRICT OFFICE, chaired by Gerald E. Vince, District Director The topic to be discussed is food labeling proposed rules.

DATES: Wednesday, October 31, 1990, 1 p.m.

ADDRESSES: Beach Pavilion Bldg., No. 2399, Fort Sam Houston, TX 78234-6200.

FOR FURTHER INFORMATION CONTACT: Juan A. Tijerina, Consumer Affairs Officer, Food and Drug Administration, 727 East Durango Blvd., room B-406, San Antonio, TX 78206-1200, 512-229-6737.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 17, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-25045 Filed 10-22-90; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Program Announcement for Professional Nurse Traineeships

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1991 Professional Nurse Traineeships are being accepted under the authority of sections 830 (a) and (c) of the Public Health Service Act, as amended by Public Law 100-607.

The Administration's budget request for FY 1991 does not include funding for this program. Applicants should be advised that this program announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Section 830(a) of the Public Health Service Act, as amended, authorizes Professional Nurse Traineeship Grants to cover the costs of traineeships for nurses in masters' degree and doctoral degree programs in order to educate such nurses to:

(1) Serve in and prepare for practice as nurse practitioners;

(2) Serve in and prepare for practice as nurse administrators, nurse educators, and nurse researchers; or

(3) Serve in and prepare for practice in other professional specialities determined by the Secretary to require advanced education.

Section 830(c) authorizes grants to cover the cost of traineeships for students who are enrolled at least half-time in programs offering a master's degree in nursing and who agree to complete the degree requirements within the academic year in which the traineeship is received.

Eligible Applicants

To be eligible to receive support an applicant must be a public no nonprofit private institution providing regis'ered nurses with full-time advanced education leading to a graduate degree in professional nursing specialties, or a public or nonprofit private school of nursing or an entity which prepares registered nurses to practice as nurse midwives. The nurses midwife program must be approved by the American College of Nurse Midwives.

Eligible Trainees

In order to qualify for traineeship support, an individual must:

(1) Meet the grantee institution's admission requirements for graduate study or the nurse midwife program (as applicable);

(2) Be a United States citizen, noncitizen national, or foreign national who possesses a visa permitting permanent residence in the United States;

(3) Have graduated from a State-approved school of nursing;

(4) Be currently licensed as a registered professional nurse in a State; and

(5) Be enrolled full-time in a graduate course of study, or half-time in a school of nursing, pursuing a master's degree which would be completed within the academic year of support.

Review Criteria

The review of applications will take into consideration the following criteria:

(a) The program(s) offered;

(b) The qualifications of the program director;

(c) The number of full-time registered nurse students enrolled in the program(s); and

(d) The number of projected half-time master's degree students who agree to complete the degree requirements within the academic year in which the traineeship is received.

In addition, the following mechanism may be applied in determining the amount of funding of approved applications.

Funding Preferences

Funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuations ahead of new projects in a discretionary program or favorable

adjustment of the formula determining grant award in a formula grant program.

Funding Preferences

The Secretary shall give a funding preference to applications:

(1) For nurse practitioner and nurse midwifery programs which conform to guidelines established and codified in the appendix at 42 CFR 57.2401–57.2410;

(2) Which demonstrate a three year average enrollment of minority students in the graduate nursing program in excess of the national average; and/or

(3) Which demonstrate an increase in the enrollment of full-time graduate minority students as of October 15 in the current school year from the number enrolled full-time as of October 15 in the preceding school year.

"Minority" means an individual whose race/ethnicity is classified as American Indian or Alaskan Native, Asian or Pacific Islander, Black or Hispanic.

These funding preferences were established as special considerations in FY 1989 after public comment and the Administration is extending them as funding preferences in FY 1991.

To determine the amount of the grant to be awarded to each approved professional nurse traineeship program, the Secretary will use a formula that includes provisions for the statutorily required setaside for half-time students and special consideration for nurse practitioner/nurse midwifery training. It also includes consideration of full-time student enrollment and minority student enrollment.

The application deadline date is November 30, 1990. Applications shall be considered as meeting the deadline if they are either:

(1) *Received on* or before the deadline date, or

(2) *Postmarked on* or before the deadline date and received in time for submission for review. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing. Applications received after the deadline will be returned to the applicant.

For specific guidelines and information regarding these programs contact: Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 5C–13, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5763.

Requests for application meterials, questions regarding grants policy and completed applications should be directed to: Grants Management Officer (A–11), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8C–26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6915.

The standard application form PHS 6025–1, HRSA Competing Training Grant Application, General Instructions and supplement for this program have been approved by the Office of Management and Budget under the Paperwork Reduction Act. The OMB clearance number is 0915–0060.

This program is listed at 13.358 in the *Catalog of Federal Domestic Assistance* and is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented by 45 CFR part 100).

Dated: September 25, 1990.

Robert G. Harmon,

Acting Administrator.

[FR Doc. 90–25046 Filed 10–22–90; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–060–01–4410–04–ADVB]

Meeting of the California Desert District Advisory Council

SUMMARY: Notice is hereby given, in accordance with Public Laws 92–463 and 94–579, that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet in formal session Thursday, November 15, 1990, from 8:00 p.m. to 4:00 p.m. and Saturday, November 17, 1990, from 8:00 p.m. to 5:00 p.m., in the Needles City Hall at 1111 Bailey in Needles, California.

Agenda items for the meetings will include:

—A vareity of desert tortoise related issues, including raven management, the tortoise habitat compensation formula, the status of various consultations with the U.S. Fish and Wildlife Service, the Western Mojave tortoise plan, and the task force studying livestock grazing in desert tortoise habitat. During this portion of the meeting, the California Desert District Advisory Council functions as California's Desert Tortoise Coordinating Committee

—An update on the current status of the Low Level Radioactive Waste Disposal Site Environmental Impact Statement and future anticipated actions, and a discussion evaluating the public participation process that accompanied the initiative

—An update on the South Coast resource management planning effort in preparation for a more indepth discussion in January or February

—A report from the Desert District's Futuring Committee, whose members are looking at anticipated land management issues for the next 10 and 20 years

—A discussion of the draft Santa Rosa Mountains National Scenic Area Management Philosophy Statement and Interim Program Guidance

—A report from the Wind Energy Task Force

All formal Council meetings are open to the public. Time is allocated for public comments, and time also may be made available by the Council Chairman during the presentation of various agenda items.

On Friday, November 16, from 7:30 a.m. to 5 p.m., Council members will participate in a field trip through the East Mojave National Scenic Area. Specific sites to be visited include the Keystone Spring area of the New York Mountains, where a mining company has sought a modification in a Public Water Reserve withdrawal to allow removal of high-grade limestone; the new campground at Hole-in-the-Wall; and the new Back Country Byway network in the Scenic Area. On the return trip to Needles, the Council will go by the Old Woman Mountains, which are included in a coordinated resource management planning effort, and Ward Valley, proposed site of a low-level radioactive waste disposal facility.

The public is welcome to participate in the field tour, but should plan on providing their own transportation, drinks, and lunch. Anyone interested in participating should contact BLM at (714) 276–6383 for more information. The tour will assemble at the Days Inn, 1111 Pashard Street in Needles on Friday morning at 7:15 a.m.

Written comments may be filed in advance of the meeting with the California Desert District Advisory Council Chairman, Mr. David Fisher, c/o Bureau of Land Management, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507. Written comments are also accepted at the time of the meeting and, if copies are provided to the recorder, will be incorporated into the minutes.

FOR FURTHER INFORMATION AND MEETING CONFIRMATION: Contact the Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, California 92507; (714) 276–6383).

Dated: October 17, 1990.

Gerald E. Hiller,

District Manager.

[FR Doc. 90-25015 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-40-M

Availability of Draft Bishop Resource Management Plan and Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with section 202 of the National Environmental Policy Act of 1969, a draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the Bishop Resource Area. The RMP/EIS describes and analyses future options for managing approxiamtely 750,000 acres of public land in California's Inyo and Mono Counties. It includes analysis of three transmission line corridor alternatives. The Inyo National Forest is a cooperating agency for the transmission line corridor portion of the document.

Decisions generated during this planning process will supersede the Benton-Owens Valley and Bodie-Coleville Management Framework Plans. The RMP/EIS incorporates land use decisions in the Benton-Owens Valley/Bodie-Coleville Wilderness EIS (1987). Copies may be obtained from the Bishop Resource Area, 787 North Main Street, Suite P, Bishop, CA 93514; phone (619) 872-4881.

Copies will be available for review at public libraries in Inyo and Mono Counties and the following BLM locations:

Office of Public Affairs, Main Interior Bldg., rm 5600, 18th and C Street, NW., Washington, DC 20240

California State Office, 2800 Cottage Way, Sacramento, CA 95825

Bakersfield District Office, 800 Truxton Ave., Bakersfield, CA 93301.

Background information and maps used in developing the RMP/EIS can be reviewed at the Bishop Resource Area.

DATES: Written comments on the draft RMP/EIS must be submitted or postmarked no later than Janaury 17, 1991. Written comments may also be presented at three public meetings to be held:

7 p.m. Tuesday November 27, American Legion Hall, U.S. Highway 395, Independence, CA.

7 p.m. Thursday November 29, Parish Hall, 849 Home Street, Bishop, CA.

7 p.m. Tuesday December 4, Memorial Hall, School Street, Bridgeport, CA.

7 p.m. Thursday December 6, Benton Community Center, Highway 120, Benton, CA.

ADDRESSES: Written comments on the document should be addressed to Mike Ferguson, Area Manager, Bureau of Land Management, 787 North Main St., Suite P, Bishop, CA 93514.

FOR FURTHER INFORMATION CONTACT: Holden Brink, RMP Team Leader, Bishop Resource Area; phone (619) 872-4881.

SUPPLEMENTARY INFORMATION: The draft RMP/EIS analyzes four alternatives to resolve the following four issues: Recreation, Wildlife, Minerals, and Land Ownership and Authorizations. Each alternative represents a complete management plan for the area. The alternatives can be summarized as: (1) No action or continuation of present management, (2) custodial management (3) natural resource enhancement, and (4) the preferred alternative. In addition to two existing Areas of Critical Environmental Concern (ACEC's), the RMP/EIS proposes the designation of five areas as ACEC's. Management prescriptions for the areas are described in chapter 2 of the RMP/EIS. The Preferred Alternative would designate:

The Slinkard ACEC to protect wildlife habitat scenic values, and recreation opportunities. Habitat conditions for mountain beaver would be improved by limiting the types of uses and vegetative treatments allowed in riparian zones, particularly aspen adn willow groves. Five creeks would be managed so they remain suitable for the reintroduction of cutthroat trout. The historic Golden Gate Mine site would be protected and interpreted and there would be yearlong protection of old growth timber. This ACEC totals 6,560 acres of public land in portions of T. 9 N., R. 21 E., MDMB: SE¼ Section 1 east of the Alpine-Mono County line, E¼ Section 12 east of the Alpine-Mono County line, NE¼ and SE¼ Section 13 east of the Alpine-Mono County line, E½ Section 24 east of the Alpine-Mono County line, NE¼ Section 25 east of the Alpine-Mono County line; T. 9 N., R. 22 E.: N¼ Section 4, Sections 5-7, W½ and NE¼ Section 8, SW¼ and SE¼ Section 9, Section 10 south of Highway 89, Section 11 south of Highway 89, Section 14, Section 15, Section 17, NW¼ and SW¼ Section 18, Section 19, Section 22 and 23, SW¼ Section 25, Sections 26 and 27, Section 30 north and east of the Alpine-Mono County line, Section 31 north and east of the Alpine-Mono County line, Section 34, Section 35.

The Conway Summit ACEC to protect scenery and dispersed recreation opportunities. The area would have yearlong protection and would be managed to conform to VRM I standards. Livestock grazing would be prohibited on acquired lands and opportunities for dispersed recreation such as camping, mountain biking, hiking, and winter sports would be enhanced. This ACEC totals 2,701 acres of public land in portions of T. 3 N., R 25 E., MDBM: Sections 22, 23, 26, 27, 34 and SE¼ Section 15, S½ Section 14, NW¼ Section 35.

The Bodie Bowl ACEC to protect visual and historic values in accordance with the cooperative agreement with Bodie State Park. Actions within the area would not be allowed if they significantly threatened the existing historical integrity of the landscape. There would be not shooting allowed and the area would be designated a Special Recreation Management Area. This ACEC totals 5,934 acres of public lands in portions of T. 4 N.R. 26 E. MDBM: S½ Section 1, SE¼ Section 2, NE¼ Section 11, Section 12, and NE¼ Section 13 and T. 4 N., R 27 E.: SW½ Section 3, Section 4, S½ Section 5, S½ and NW¼ Section 6, Sections 7-10, W½ Section 11, Sections 14-17 N½ and SE¼ Section 18, Sections 20-21, W½ and NE¼ Section 22, NW¼ Section 23.

The Crater Mountain ACEC to protect scenic values and recreation and geologic interpretive opportunities. 240 acres would be acquired to protect recreation and scenic resources. This ACEC totals 5,734 acres of public land in portions of T. 9 S, R. 33 E., MDBM: Sections 25 and 36, SE¼ Section 24; T. 10 S., R. 33 E., Sections 1 and 12, NE¼ Section 13; T. 9 S. R. 34 E.: SW¼ Section 19 and Sections 29-32, T. 10 S., R 34 E.: Sections 5-8, N½ Section 18, and NE¼ Section 17.

The Keynot Peak ACEC to protect the scientific and scenic values of the bristlecone pine forest. It would have yearlong protection and be managed to meet wilderness guidelines. Campfires would be prohibited and wood could be removed only for research or museum purposes. This ACEC totals 2,162 acres of public land in portions of projected T. 14 S., R. 37 E., MDBM: Sections 6, 7, 8, 16, 17, 18, 20, 21, 28, 29, 32, 33, 34 and projected T. 15 S. R. 37 E., Sections 3, 4, 10, and 11. Its eastern edge follows the crest of the Inyo Mountains. It encompasses the bristlecone pine vegetation type within the south Inyo Wilderness Study Area.

Public participation has occurred throughout the RMP process. A Notice of Intent was filed in the **Federal Register** in June 1988. Since that time there have been several mailings and public meetings to solicit comments and ideas.

All comments received have been considered.

Dated: October 12, 1990.

Michael A. Ferguson,

Bishop Resource Area Manager.

[FR Doc. 90-24946 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: Bio Systems Analysis, Inc., Santa Cruz, CA, PRT-751892

The applicant requests a permit to live-trap and release Tipton kangaroo rats (*Dipodomys n. nitratoides*) in Kern County, California, to determine the occurrence of this species at locations of proposed projects.

Applicant: Duke University, Durham, NC, PRT-752608

The applicant requests a permit to import one male mongoose lemur (*Lemur mongoz*) from Poland for enhancement of propagation or survival of the species through captive breeding. This animal was confiscated by Polish authorities and is now being held at Wielkopoliski Park Zoologiczny.

Applicant: University of California, La Jolla, CA, PRT-738264

The applicant requests a permit to import hair samples of captive gibbons (*Hylobates* sp.) for genetic research. The animals are held at zoo facilities in Thailand, Malaysia and Indonesia.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) room 430, 4401 N. Fairfax Dr., Arlington, VA 22203, or by writing to the the Director, U.S. Office of Management Authority, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: October 17, 1990.

Karen Willson,

Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-24974 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-55-M

Outer Continental Shelf Advisory Board; Gulf of Mexico Regional Technical Working Group; Meeting

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Gulf of Mexico Regional Technical Working Group (RTWG) meeting.

SUMMARY: Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463). The Gulf of Mexico RTWG meeting will be held November 16, 1990, 9 a.m. to 1 p.m., at the Doubletree Hotel, Crescent Room, 300 Canal Street, New Orleans, Louisiana.

The RTWG business meeting will be held in conjunction with the Information Transfer Meeting. Agenda items for the business meeting include:

- Roundtable Discussion.
- Oil and Gas Reserves Estimates.
- Bathymetric Maps for the Gulf of Mexico.
- Flower Gardens—Video and Discussion.

FOR FURTHER INFORMATION: This meeting is open to the public. Individuals wishing to make oral presentations to the committee concerning agenda items should contact Ann Hanks of the Gulf of Mexico OCS Regional Office at (504) 736-2589 by November 5, 1990. Written statements should be submitted by the same date to the Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123. A transcript and complete summary minutes of the meeting will be available for public inspection in the Office of the Regional Director at the above address not later than 60 days after the meeting.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico RTWG is one of six such Committees that advises the Director of the Minerals Management Service on technical matters of regional concern regarding offshore prelease and postlease sale activities. The RTWG membership consists of representatives from Federal Agencies, the coastal States of Alabama, Florida, Louisiana, Mississippi, and Texas, the petroleum industry, the environmental community, and other private interests.

Dated: October 11, 1990.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 90-24936 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Santa Fe National Historic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92-463, that a meeting of the Santa Fe National Historic Trail Advisory Council will be held beginning at 8:15 a.m., at the Quality Inn, 1325 E. 3rd Street, La Junta, Colorado.

The Santa Fe National Historic Trail Advisory Council was established pursuant to Public Law 90-543 establishing the Santa Fe National Historic Trail to advise the National Park Service on such issues as preservation of trail routes and features, public use, standards for posting and maintaining trail markers, as well as administrative matters.

The matters to be discussed include:

—Review of interpretive planning matters.
—Auto tour route signing.
—Fundraising proposals.
—Status of certification projects and agreements with states.
—Historical research projects.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with David Gaines, Project Coordinator.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact David Gaines, Project Coordinator, Santa Fe National Historic Trail, P.O. Box 728, Santa Fe, New Mexico 87504-0728, telephone 505/988-6886. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Project Coordinator, located in Room 346, Pinon Building, 1220 South St. Francis Drive, Santa Fe, New Mexico.

Dated: October 11, 1990.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc. 90-24948 Filed 10-22-90; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 13, 1990. Pursuant to § 60.13 of 36 CFR part 60 written comments

concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013–7127. Written comments should be submitted by November 7, 1990.

Carol D. Shull,

Chief of Registration, National Register.

FLORDIA

Hendry County

Hendry County Courthouse, Old, Jct. of Bridge St. & Hickpochee Ave, LaBelle, 90001744

LOUISIANA

Catahoula Parish

Hardin House, LA 913 N of jct. with LA 8, Sicily Island vicinity, 90001740

St. Charles Parish

Ormond Plantation House, Jct. of LA 48 & Oak Ave., Destrehan, 90001748

St. Tammany Parish

Lacombe, School, Jct. of St. Mary & 14th Sts., Lacombe, 90001742

Madisonville Town Hall, 203 Cedar, Madisonville, 90001741

NORTH DAKOTA

Cass County

Great Northern Freight Warehouse, 420 N. Seventh St., Fargo, 90001749

PENNSYLVANIA

Lackawanna County

Delaware, Lackawanna and Western Railroad Yard—Dickson Manufacturing Co. Site, roughly bounded by Cliff St., Lackawanna Ave., Mattes Ave, River St. & the Lackawanna R., Scranton, 90001739

TEXAS

Parker County

Weatherford Downtown Historic District (Weatherford MPS), roughly bounded by Waco, Water, Walnut & Lee Sts., Weatherford, 90001745

VERMONT

Windham County

Medburyville Bridge (Metal Truss, Masonry & Concrete Bridges in Vermont MPS) Town Hwy. 31 over the Deerfield R., Wilmington, 90001746

WISCONSIN

Winnebago County

Neenah United States Post Office, 307 S. Commercial St., Neenah, 90001743

[FR Doc. 90–24949 Filed 10–22–90; 8:45 am]

BILLING CODE 4310–70–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31750]

Norfolk and Western Railway Company—Trackage Rights Exemption—Canadian National Railway Company and CNCP Niagara Detroit

Canadian National Railway Company (CNRC) and CNCP Niagara-Detroit [1] have agreed to grant overhead trackage rights to Norfolk and Western Railway Company (NW) between milepost 226.3, at the International Boundary line between the United States and Canada in the Detroit River Tunnel approximately in the middle of the Detroit River, and milepost 228.1, at Detroit, MI.[2] The trackage rights are to become effective on October 23, 1990.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: James L. Howe III, Norfolk and Western Railway Company, Three Commercial Place, Norfolk, VA 23510–2191.

As a condition to the use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

Dated: October 15, 1990.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 90–24892 Filed 10–22–90; 8:45 am]

BILLING CODE 7035–01–M

[1] CNRC is manager and operator of the Detroit River Tunnel; CNCP Niagara-Detroit, a partnership comprised of CNRC and Canadian Pacific Limited, is owner of the Detroit River Tunnel.

[2] These mileposts reflect the portion of the trackage rights lying wholly within the United States and the subject of this notice. CNRC has agreed to grant overhead trackage rights to NW between milepost 225.1, at Windsor, Ontario, Canada, and milepost 228.1, at Detroit. The portion of the trackage rights in Canada are not within the scope of this notice.

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M–90–11–M]

Harney Rock and Paving Co., Petition for Modification of Application of Mandatory Safety Standard

Harney Rock and Paving Company, P.O. Box 800, Hines, Oregon 97738 has filed a petiton to modify the applicatior of 30 CFR 56.14130 (roll-over protective structures (ROPS) and seat belts) to its Crusher No. 1 (I.D. No. 35–03345) located in Harney County, Oregon. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that front-end loaders be equipped with roll-over protective structures (ROPS).

2. As an alternate method petitioner proposes to operate front-end loaders without ROPS.

3. The front-end loader would be operated on flat, stable ground.

4. The loader would be loading railroad cars in a loading area until its retirement.

5. Petitioner states that this is a safe alternate method since there is no danger of the equipment rolling over.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1990. Copies of the petition are available for inspection at that address.

Dated: October 15, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–24977 Filed 10–22–90; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–90–17–M]

Kennecott Utah Copper, Petition for Modification of Application of Mandatory Safety Standard

Kennecott Utah Copper, P.O. Box 525, Bingham Canyon, Utah 84006–0525 has filed a petition to modify the application of 30 CFR 56.14211 (blocking equipment

in a raised position) to its Kennecott Utah North Copper Concentrator (I.D. No. 42–00717) located in Salt Lake County, Utah. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a raised component of mobile equipment is considered to be blocked or mechanically secured if provided with a functional load-locking device or a device which prevents free and uncontrolled descent.

2. As an alternate method petitioner proposes to use a crane to hoist, lower or suspend persons in a work platform attached to the hook of the load block.

3. In support of the petition, petitioner states that the overhead crane will meet all applicable federal and American National Standards Institute (ANSI) standards and include all standard safety features such as trolley stops, bridge bumpers, trolley bumpers, holding brakes for hoist motors, control braking trolley bumpers, holding brakes for hoist motors, control braking capable of maintaining safe lowering speeds, trolley and bridge brakes, upper and lower limit switches and emergency stop switches.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1990. Copies of the petition are available for inspection at that address.

Dated: October 15, 1990.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–24978 Filed 10–22–90; 8:45 am]

BILLING CODE 4510–43–M

[Docket No. M–90–247–C]

Pyro Mining Co., Petition for Modification of Application of Mandatory Safety Standard

Pyro Mining Company, P.O. Box 267, Sturgis, Kentucky 42459 has filed a petition to modify the application of 30 CFR 75.507 (power connection points) to its Wheatcroft No. 9 Mine (I.D. No. 15–13920) located in Webster County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that except where permissible power connection units are used, all power-connection points out-by the last open crosscut be in intake air.

2. As an alternate method, petitioner proposes to operate a nonpermissible submersible pump in a return air shaft.

3. In support of this request, petitioner states that—

(a) The pump would be installed with motor and all motor connections below water level and be controlled by intrinsically safe liquid sensors through an intrinsically safe relay mounted in a square starting box;

(b) Only the pump, power cable and liquid level sensors would be in return air; and

(c) Circuit protection would be provided at the center, motor overloads would be located in the line starter, and all electricial equipment would be accessible for inspection.

4. For these reasons, petitioner requests modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before November 23, 1990. Copies of the petition are available for inspection at that address.

Dated: October 15, 1990.

Patricia W. Silver,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 90–24979 Filed 10–22–90; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by November 23, 1990. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357–7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. Law 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follow:

1. Applicant (90–31)
   Jim Claus,
   Society Expeditions, Inc.,
   3131 Elliott Avenue, Suite 700,
   Seattle, Washington 98121

Activity for Which Permit Requested

Taking. The applicant requests permission to salvage dead specimens (i.e., penguin wing or flipper, seal skull or bird beak) on an opportunity basis. Specimens would be used for educational purposes during discussions and lectures to cruise ship passengers.

Location

Ross Sea area, Antarctica.

Dates

December 1990–February 1991.

2. *Applicant* (90–32)
   Jim Claus,
   Society Expeditions, Inc.,
   3131 Elliott Avenue, Suite 700,
   Seattle, Washington 98121

Activity for Which Permit Requested

Taking. The applicant requests permission to salvage dead specimens (i.e., penguin wing or flipper, seal skull or bird beak) on an opportunity basis. Specimens would be used for educational purposes during discussions and lectures to cruise ship passengers.

Location

Antarctic Peninsula area and offshore islands.

Dates

December 1990–March 1991.

3. *Applicant* (90–32)

David F. Parmelee,
Bell Museum,
University of Minnesota,
Minneapolis, Minnesota 55455

Activity for Which Permit Requested

Taking. Enter Specially Protected area. Enter Site of Special Scientific Interest. The applicant proposes to visit nesting areas for birds (except penguins) to examine birds previously banded. This is a follow-up to a long-team study of longevity and migration of birds.

Location

Antarctic peninsula area.

Dates

December 1990–March 1991.

Charles Myers,

Permit Office.

[FR Doc. 90–24945 Filed 10–22–90; 8:45 am]
BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–461]

Illinois Power Co., et al.; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50–461]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to the Illinois Power Company (IP) and Soyland Power Cooperative, Inc. (the licensees), for operation of Clinton Power Station, Unit 1, located in DeWitt County, Illinois.

Environmental Assessment

Identification of Proposed Action

The licensees have requested a license amendment that would revise the Technical Specifications (TS) to delete Section 3/4.3.8, "Turbine Overspeed Protection System."

This revision to the Clinton Power Station TS would be made in response to the licensees' application for amendment dated October 30, 1987.

The Need for the Proposed Action

IP, et al., have proposed an amendment to Facility Operating License No. NPF–62 which consists of changes to the TS. Section 3/4.3.8 addresses the operability and surveillance requirements for the turbine overspeed protection system. The CPS Updated Safety Analysis Report (USAR) provides an analysis of the probability of turbine missile damage to safety-related components. The analysis considered turbine placement and orientation and the potential generation of low-trajectory and high-trajectory missiles.

The probability of turbine missile damage was based on the probabilities of missile generation, of a missile striking a barrier, and of a missile penetrating a barrier. The CPS USAR also provides a discussion of the inservice inspection program for the turbine-generator, including the licensee commitment to an inspection program on the steam valves in accordance with the manufacturer's recommendations. Based on the low probability of a turbine generated missile damaging safety-related equipment and other existing procedural requirements for inspection and test of the turbine steam valves, the licensee proposes to delete Section 3/4.3.8 entirely.

Environmental Impacts of the Proposed Action

The proposed change removes the turnine overspeed protection system requirements from the plant TS but no changes to plant design are proposed. The licensee will continue to perform inspection and testing on the turbine overspeed protection system based on vendor recommendations.

The Commission has concluded that these changes do not significantly increase the probability or consequences of any accident and that potential radiological releases during normal operations or transients would not be increased. With regard to nonradiological impacts, the proposed amendment involves systems located within the restricted area as defined in 10 CFR part 20. They do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the staff also concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

Accordingly, the Commission findings in the "Final Environmental Statement related to the operation of Clinton Power Station, Unit No. 1" dated May 1982 regarding radiological environmental impacts from the plant during normal operation or after accident conditions, are not adversely altered by this action. IP is committed to operate Clinton, Unit 1, in accordance with standards and regulations to maintain occupational exposure levels "as low as reasonably achievable."

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the Federal Register on February 18, 1988 (53 FR 4918). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action

The principal alternative would be to deny the requested amendment. This alternative, in effect, would be the same as a "no action" alternative. Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statements for the Clinton Station, Unit 1, dated May 1982.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request of October 30, 1987 and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon this environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated October 30, 1987 and the Final Environmental Statement for the Clinton Power Station dated May 1982, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois 61727.

Dated at Rockville, Maryland, this 12th day of October 1990.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects-III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 90-25008 Filed 10-22-90; 8:45 am]

BILLING CODE 7590-01-M

Application for License To Export a Utilization Facility

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following application for an export license. A copy of the application is on file in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of the application for a license to export a utilization facility as defined in 10 CFR part 110 and noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the material to be exported. The information concerning this application follows.

NRC EXPORT LICENSE APPLICATION

Name of applicant, Date of application, Date received, Application No.	Description	Value	End use	Country of destination
General Atomics, 10/09/90, 10/10/90, XR154.	TRIGA Mark I Research Reactor.....	$1,700,000	Production of Radioisotopes for local hospitals.	Albania.

For the Nuclear Regulatory Commission.

Dated this 16th day of October 1990 at Rockville, Maryland.

Ronald D. Hauber,

Assistant Director for International Security, Exports and Materials Safety, International Programs, Office of Governmental and Public Affairs.

[FR Doc. 90-25011 Filed 10-22-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittees on Containment Systems and Structural Engineering; Meeting

The ACRS Subcommittees on Containment Systems and Structural Engineering will hold a joint meeting on November 7, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 7, 1990—8:30 a.m. until the conclusion of business

The Subcommittees will discuss containment design criteria for future plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittees Chairmen; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittees, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the meeting, the Subcommittees, along with any of their consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairmen's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492-9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 16, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90-25009 Filed 10-22-90; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on November 6, 1990, room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows: *Tuesday, November 6, 1990—8:30 a.m. until the conclusion of business.*

The Subcommittee will discuss the status of the NRC staff's program on interfacing systems loss of coolant accident (ISLOCA).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present

oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Official, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: October 16, 1990.

Gary R. Quittschreiber,

Chief, Nuclear Reactors Branch.

[FR Doc. 90–25010 Filed 10–22–90; 8:45 am]

BILLING CODE 7590–01–M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Meeting

ACTION: Notice of Meeting.

Pursuant to the Nuclear Waste Technical Review Board's (NWTRB) authority under section 5051 of Public Law 100–203, the Nuclear Waste Policy Amendments Act (NWPAA) of 1987, the NWTRB Structural Geology & Geoengineering Panel will hold a technical exchange meeting from 1 p.m. to 4 p.m. on November 19, 1990, and from 8 a.m. to 4 p.m. on November 20, 1990, at the Denver Hyatt Regency Hotel, Downtown, 1750 Welton Street, Denver, Colorado 80202; (303) 295–1200.

Panel members will receive an interim report from representatives of the Department of Energy (DOE), Sandia National Laboratories, and other DOE contractors, on the alternatives analysis study for the exploratory shaft facility (ESF). The study, which is to be completed by January 1991, will evaluate configurations for an ESF as part of site-characterization activities related to the proposed development and operation of a permanent repository, at Yucca Mountain, Nevada, for high level waste (HLW), including commercial spent fuel and defense high-level waste from reprocessing. Discussion will focus on progress in identifying a recommended configuration for an ESF at the Yucca Mountain Site. The public is welcome to attend as observers.

The NWTRB was established by the Nuclear Waste Policy Amendments Act (NWPAA) of 1987 (Pub. L. 100–203) to evaluate the scientific and technical validity of activities undertaken by the DOE's program for managing HLW. In the same act, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, as the possible location for a permanent underground repository for HLW. The Board's charge includes the evaluation of the DOE's activities relating to site-characterization, and to the packaging and transportation of HLW.

For further information, please contact the NWTRB office at 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235–4473.

Dated October 18, 1990.

William D. Barnard,

Executive Director, Nuclear Waste Technical Review Board.

[FR Doc. 90–25027 Filed 10–22–90; 8:45 am]

BILLING CODE 6820–AM–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by the Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 5th Street NW., Washington, DC 20549.

New

Form ID

File No. 270–291

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance a new Form ID to replace its existing Form ID. The information collected via the new Form ID will be used by the Commission to verify the identity of applicants before EDGAR identification codes and passwords are issued, to provide an official contact for receipt of EDGAR-related information and to establish a contact for receipt of invoices and billing information.

The estimated average burden hours to comply with this request is one half hour each for approximately 20,000 respondents.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street NW., Washington DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, Paperwork Reduction Act Project (3235–040A), Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 15, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24930 Filed 10–22–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28545; File No. 4–281]

Joint Industry Plan; Fifteenth Amendment to the Consolidated Tape Association Plan and Nineteenth Amendment to the Consolidated Quotation Plan

I. Introduction

On September 27, 1990, the Participants in the Consolidated Quotation Plan ("CQ Plan") and the Consolidated Tape Association ("CTA") submitted amendments to the plan governing the operation of the consolidated quotation system ("CQS") and the plan governing the operation of the consolidated transaction system ("CTS"). The amendments to both Plans were filed pursuant to section (c)(2) of rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"). The CTA amendments also were submitted pursuant to rule 11Aa3–1 under the Act.

II. Purpose of the Amendments

The amendments are intended to serve four purposes. First, the amendments would make the Chicago Board Options Exchange ("CBOE") a Participant in the Restated CTA Plan and in the CQ Plan. Second, the amendments would alter the revenue sharing provisions of the CTA and CQ Plans. Third, they would amend the CTA Plan procedures for becoming a Plan Participant to make those provisions consistent with the procedures in the CQ Plan and, finally, the amendments make several technical conforming amendments.

A. CBOE Participation

The CBOE has submitted a package of stock rules to the Commission for review under section 19 of the Act, which if approved, would authorize the CBOE to provide trading facilities for individual stocks and other non-option securities for the first time. Rule 11Aa3–1 requires that every exchange file a transaction reporting Plan for transactions in listed equity and NASDAQ securities executed through its facilities.[1] In light of its plans to provide trading facilities for such securities, the CBOE requested that it be made a Participant in the CTA Plan. In addition, rule 11Ac1–1 requires that

[1] Rule 11Aa3–1(b)(1).

each exchange establish and maintain procedures for the collection and dissemination to vendors of quotation data.[2] Because the CQ Plan provides such procedures, the CBOE also requested that it be made a Participant in the CQ Plan. The amendments would add CBOE as a participant in both Plans.

B. Revenue Sharing Provisions

The proposed amendments would alter the provisions contained in both Plans that govern how revenues received for the market data disseminated pursuant to the Plans are to be distributed among the Participants. Specifically, the amendments alter the calculation of "Annual Share," which represents the relative percentage of last sale reports and quotations submitted to the Plan processor by each Participant and is the basis for apportioning Plan revenues. The proposed amendments would exclude from the Annual Share calculation last sale prices on any security that is the subject of a contractual relationship that grants a Participant: (1) The exclusive right to trade the security or (2) the discretion to determine which other Participants may trade the security.

This amendment has been proposed in response to CBOE's proposal to trade "SuperShares," which is currently being reviewed by the Commission.[3] One significant characteristic of SuperShares, for purposes of this filing, is the fact that CBOE has entered into an exclusive agreement with the potential issuer of these securities.

In their submission, the Participants stated that the original Participants to the CTA Plan filed the Plan to provide a system to disseminate on a consolidated basis last sale prices of securities traded on more than one of the Participants and thereby to comply with rule 17a–15 (later redesignated as rule 11Aa3–1) of the Act. The Participants also stated that they believe that the CTA Plan, as originally filed, did not contemplate use of the CTA facilities to disseminate last sale prices relating to anything other than securities that are eligible for multiple trading on the Participant markets.

The Participants acknowledged, however, that they have allowed Participants to use the CTA facilities to disseminate last sale prices on other issues. For example, three weeks after the original CTA Plan became effective, the Participants filed an amendment to allow each Participant to use the CTA facilities to disseminate last sale prices in bonds and options traded on the Participant. The Participants stated that the amendment provided, however, that the bonds and options would not participate in revenue sharing.[4] The Participants also amended the CTA Plan in 1978 to permit the concurrent use of the facilities for the reporting of the last sale prices relating to "local" issues that did not meet the CTA Plan's definition of an "Eligible Security." However, the Participants stated that they excluded those local issues in the calculation of each Participant's annual share of revenue. In addition, the Participants stated that they have traditionally allowed Participants to use CTA and CQ systems to disseminate information relating to exclusively traded securities, but only at the exclusion of those last sale prices from the Annual Share calculations. Thus, the Participants stated that they believe that it is appropriate that the amendments extend the exclusively traded security principle to the new circumstance presented by the CBOE's proposed participation.

C. New Participant Provisions

The amendments also would amend the CTA Plan procedures for becoming a Plan Participant to make those provisions consistent with those in the CQ Plan. Both Plans contain provisions to the general effect that any other national securities exchange may become a Participant. The CQ Plan contains a specific mechanism to effect the addition of a new Participant but the Restated CTA Plan does not. The Participants stated that they believe the Plans should be in conformity on this matter and, accordingly, proposed amendments to the Restated CTA Plan to conform it to the CQ Plan. In addition, the amendments would add a new section to the CTA Plan to provide that the Plan, and any contracts and resolutions made pursuant to the Plan, shall be effective as to that Participant when, among other things, the Participant has begun to furnish last sale prices to the Processor.

D. Conforming Amendments

As noted above, the submission also contained various conforming amendments. These amendments generally add references to the CBOE throughout the Plan, as necessary.

IV. Implementation of the Amendments

The Participants noted, that in their view, three issues remain to be resolved "in relation to" the CBOE's participation in the two Plans. First, the Participants noted that CBOE has proposed to commence trading Eligible Securities prior to the time that the Plans' processor will have completed the system modifications to the CTS and the CQS that are required to enable these systems to receive, process, consolidate and disseminate CBOE last sale prices and/or bid and asked prices. The processor has provided CBOE with estimates of the costs and time needed to complete the work, currently targeted for mid-January, 1991, and CBO has authorized the processor to proceed. The CTA noted that the CBOE's application for participation was submitted during the final stages of a multi-phase program to upgrade CTS to a stand-alone system and that work on an interface between CBOE and CTS would not commence until that upgrade was completed. In the interim, CBOE plans to disseminate data through CTS and CQS facilities, if necessary, by "piggybacking" into the input circuits of another Participant, the Cincinnati Stock Exchange, Inc., ("CSE"), until CBOE is able to transmit information directly to the processor. Among other implications, this "piggybacking" procedure will result in the reporting of CBOE trade reports and quotations with a CSE market identifier of the CSE. The Participants also stated that the CBOE and the CSE have agreed that the CBOE would refrain from commencing to trade any Eligible Security on the CSE for the duration of the CBOE's use of the CSE's input circuits in order to avoid the confusion and practical problems that would result from having both exchanges transmitting indistinguishable trade reports and quotations in the same security. In addition, the Participants asserted that the CBOE and the CSE have undertaken: (1) To obtain from the Commission any exemptions necessary to address any inconsistencies between the "piggybacking" proposal and Commission rules; (2) to identify to, and obtain waivers from, the other Participants necessary to address any inconsistencies between the "piggbacking" proposal and the CTA Plan and the CQ Plan; and (3) to indemnify the Participants and the Plan's processor for any adverse consequences from the "piggyback" arrangement.

Second, the Participants stated that they have not yet agreed with the CBOE on either the amount or the method of

[2] Rule 11Ac1–1(b)(1).

[3] *See* Securities Exchange Act Rel. No. 28132 (June 19, 1990), 55 FR 26038.

[4] The reference to options was subsequently deleted when the CTA Plan was restated in 1980 given the formation and organization of the Options Price Reporting Authority.

reimbursement of the Participants for access to CTS and CQS facilities. The CBOE has made a proposal that is being studied by a subcommittee of the CTA and CQ Operating Committee. The Participants also stated that they have agreed not to make the resolution of this issue a precondition to the CBOE's participation.

Third, the CBOE has not yet demonstrated to the Participants that SuperShares, the security that CBOE would like to report through CTA and CQ facilities, meets the definition of an Eligible Security. Because SuperShares may be the first security as to which the CBOE furnishes trade reports and quotations, the Participants stated that they believe that this determination has special significance. Specifically, the Participants stated that they believe that the CBOE's participation in the Plan cannot become effective until it commences to furnish trade reports and quotations in an Eligible Security.

V. Request for Comment

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communication relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CTA. All submissions should refer to the file number in the caption above and should be submitted by November 6, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.–30–3(a)(27).

Dated: October 16, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–25023 Filed 10–23–90; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–28546; International Series Rel. No. 178; File No. SR–AMEX–90–19]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Calculation of the Japan Index

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 15, 1990, the American Stock Exchange, Inc. ("AMEX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Commission recently approved an AMEX proposal to list for trading a new index option contract based on the Japan Index ("Japan Index" or "Index")—a broad-based on index of Japanese stocks that are traded on the Tokyo Stock Exchange ("TKE").[1] The AMEX proposes to modify its method of calculating the daily value of the Japan Index by basing the Index value solely on the last sale prices of the component stocks on the TKE. Currently, if a component stock does not trade on a given day on the TKE, but does trade on the Osaka Stock Exchange ("OSE"), the last sale price on the OSE of such component stock will used in the calculation of the Index.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B, and C below.

[1] *See* Securities Exchange Release No. 28475 (September 27, 1990), 55 FR 40492.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis, for the Proposed Rule Change

The Japan Index is a price-weighted index developed by the AMEX that is comprised of 210 Japanese stocks traded on the TKE. Currently, the specifications of the Japan Index provide for the calculation of the Index's daily value to be generally based on the closing prices of the component stocks on the TKE. The specifications further provide that in the event on any day a component stock does not trade on the TKE, but does trade on the OSE, the last sale price on the OSE will be used for calculating the Index value.

For settlement purposes, however, the existing specifications provide that the Index's settlement value is based exclusively on the latest closing TKE prices available on the trading day in Japan following the last day of trading in expiring Index option series, regardless of whether a more recent trade occurred on OSE. The Exchange now proposes to base its daily Japan Index value calculation exclusively on the closing prices of the component stocks on TKE in a manner similar to that employed in calculating the Index's settlement value.

The Exchange believes that it is appropriate to have consistency in the methods of calculating both the daily Index value and the Index settlement value. Moreover, the Exchange believes that basing an index value exclusively on component stock prices from the primary market, such as the TKE in the case of the Japan Index, is consistent with the Exchange's method of calculating other index values, such as is Major Market Index and Institutional Index. Moreover, the Exchange believes that basing the Index value upon the last prices in the primary market is consistent with methods of index calculation utilized by other administrators of stock indexes.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act in that it will facilitate transactions in securities and protect investors and the public interest. In particular, the Exchange believes that the proposed rule change is consistent with section 6(b)(5) of the Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section [2] and the rules and regulations thereunder. Specifically the Commission believes that it is consistent with the objectives of the Act for the Exchange to utilize the same index calculation method for the daily disseminated Index values and as the Index value for settlement purposes. The Commission notes that, because of AMEX's Japan Index option is a standardized European-style options contract (exercisable only at expiration) and currently only TKE prices are used for calculating the Index's value for settlement purposes, this proposed rule change will not affect the value of any Japan Index options contracts. The proposal will, however, eliminate potential uncertainty and confusion among investors of Japan Index options as to when, and if, the AMEX has utilized the non-TKE prices of some of the securities included in the Index when calculating the Index's disseminated value. Accordingly, the Commission believes that the AMEX's proposal to utilize only TKE prices for determining the value of the Japan Index will avoid investor confusion, thereby protecting investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because it will permit existing investors of Japan Index options contracts to track more easily and accurately the Index's current value and will not affect the value of any existing Japan Index options contracts.

[2] 15 U.S.C. 78f (1982).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by November 13, 1990.

It is therefore ordered, pursuant to section 19(b)(2) of the act,[3] that the proposed rule change is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[4]

Dated: October 17, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25021 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-28544; International Series Rel. No. 177; File Nos. SR-AMEX-90-08; SR-NYSE-90-36; SR-PHLX-90-25; SR-PSE-90-19]

Self-Regulatory Organizations; American Stock Exchange, Inc., et al.; Order Approving Proposed Rule Changes Relating to the Listing of Index Warrants Based on the CAC-40 Index

I. Introduction and Background

The American ("AMEX"), New York ("NYSE"), Philadelphia ("PHLX"), and Pacific ("PSE") Stock Exchanges, collectively ("Exchanges"), have submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and rule 19b-4 thereunder,[2] proposed rule changes to list warrants based on the Cotation Assistée en Continu 40 Index ("CAC-40" or "Index")—a broad-based index of French stocks traded on the Paris Bourse.[3]

The proposed rule changes were published for comment in various releases.[4] No comments were received on these proposed rule changes.

II. Description of the Proposal

The Exchanges propose to list index warrants [5] based on the CAC-40, an internationally recognized, capitalization-weighted index consisting of 40 leading stocks listed and traded on the Paris Bourse and calculated by the Societe des Bourses Francaises ("SBF").[6]

[3] 15 U.S.C. 78s(b)(2) (1982).

[4] 17 CFR 200.30-3(a)(12) (1989).

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1989).

[3] In France, securities may be listed on only one of seven stock exchanges. Together these bourses or stock exchanges—Paris, Bordeaux, Lille, Lyons, Marseilles, Nancy and Nantes—form a single exchange system operating under the same principles, headed by the same authorities and subject to the same rules and regulations. For purposes of calculating the CAC-40 Index, however, only securities traded on the Paris Bourse are considered. For a more complete description of the regulatory structure in France, see *infra* note 7.

[4] *See* Securities Exchange Act Rel. Nos. 28070 (May 29, 1990), 55 FR 23323 (notice of file no. SR-AMEX-90-08); 28225 (July 18, 1990), 55 FR 30770 (notice of File No. SR-CBOE-90-16); 28309 (August 3, 1990), 55 FR 32720 (notice of File No. SR-MSE-90-10); 28319 (August 8, 1990), 55 FR 33400 (notice of File No. SR-NYSE-90-36); 28385 (August 28, 1990), 55 FR 36377 (notice of File No. SR-PHLX-90-25); 28068 (May 29, 1990), 55 FR 22982 (notice of File No. SR-PSE-90-18.

[5] Warrants on a stock index are securities that incorporate certain characteristics of both stocks and options. Like stock, they are issued by a corporation that serves as guarantor of the warrant obligation. Like a stock index option, however, an index warrant is based on the performance of an underlying index and has a fixed expiration date. Index warrants are also cash-settled and, just as with options, the risk to a buyer is known and limited. For a description of how index warrants are cash-settled, see *infra* text at p. 9.

[6] The SBF is a "specialized financial institution," under the direction of the Conseil des Bourses de Valeurs or Stock Exchange Council. It implements decisions taken by the Stock Exchange Council, such as day-to-day administration of French securities markets, development and promotion, and provides investors and the general public with comprehensive information on market activities. In addition, the SBF monitors and supervises the market and exchange member firms under delegated authority by the Exchange Council. The Stock Exchange Council is the regulatory authority similar to a self-regulatory organization in the United States, charged with formulating the rules under which the French market and brokerage firms operate. The rules of the Stock Exchange Council, called the Règlement Général du Conseil des Bourses de Valeurs, set forth terms and conditions for the creation of new brokerage houses, security listings, removals from listing and suspension, and takeover bids and establish a code of conduct for exchange members. In addition, the Council ensures member compliance with its rules by bringing disciplinary action if necessary. The French

Continued

The CAC–40 is calculated based on 40 French stocks chosen by the SBF to provide an indication of the performance of the French stock market. In particular, the Index is designed so that the economic sectors contained in the Index receive approximately the same weighting as in the overall French market, for both market value and trading volume.[7] In order to achieve such broad representaton, the SBF selects compenent securities based on the following market and economic criteria. First, there are three market thresholds for a security to satisfy before such security can be contained in the Index: (1) It must rank among the top 100 securities traded on the Paris Bourse's monthy settlement market in terms of market capitalization; [8] (2) it must have a large enough float to ensure that it is widely-held; and (3) it must be continuously traded either on the Paris Bourse's computerized trading system or by open outcry on the exchange floor.[9] Second, component securities must satisfy an economic criteria, namely, that when considering the other stocks in the Index, a security does not distort the representative sampling of the major industry sectors in the Index. If a security fails to meet any of these requirements, it will be removed and replaced.[10]

The CAC is continuously calculated using the last sale price of each of the 40 quoted stocks comprising the Index and disseminated at 30-second intervals throughout the Paris Bourse trading day from 10 a.m. to 5 p.m. (Paris time) (4 a.m. to 11 p.m. Eastern Standard Time). The Index is published daily in, among other places, the *Wall Street Journal*, as well as being available real-time on Telefax, Reuters and other market information systems which disseminate information on a minute-by-minute basis. To calculate the CAC, the SBF takes the sum of the market values of the 40 stocks in the Index and divides this number by a base adjusted market value or divisor. In order to provide continuity for the Index's value, the divisor is adjusted periodically to reflect events such as new issuances of stock and other capitalization changes.

In addition, whenever there is stale last sale information for a large percentage of component securities in the Index, the CAC–40 Index is replaced with an "éclaireur." The "éclaireur" is a collection of indicators used to show the trend of the market based on the component stocks that are actually traded.[11] The éclaireur is disseminated at the start of each daily trading session, prior to the establishment of an initial quoted price for each component stock, and in the event that tradeing has been suspended in stocks representing more than 35% of the total market capitalization of the component stocks.[12]

As of June 28, 1990, the total capitalization of the CAC–40 was $166.6 billion or approximately 60% of the capitalization of the CAC–240 General Index, a benchmark of French listed-securities.[13] Business sector representation in the CAC as of June 29, 1990, was as follows: (1) Raw materials (16%); (2) construction (4%); (3) capital goods (12%); (4) durable goods (6%); non-durable goods (6%); (6) food products (13%); (7) services (9%) and (8) financial companies (23%).

The five largest issues contained in the CAC–40 Index account for approximately 31.39% of the Index's value.[14] The average daily trading volume during the first six months of 1990 for the five most heavily weighted stocks in the CAC was 652,990 shares collectively and 130,998 individually.[15] The total average daily trading volume of the 40 CAC stocks for the same period was 2,874,523 shares. Additionally, the smallest corporation in the CAC–40, which was "Establissements Economiques du Casino," represented .55% of the Index with a market capitalization of 5.2 billion French francs or approximately $924 million.

The Exchanges propose to trade CAC warrants pursuant to the requirements of their generic Index Warrant Approval Orders, that, among other things, permit the Exchanges to list index warrants based on established market indexes, both foreign and domestic.[16]

Consistent with the generic Index Warrant Approval Orders, the Exchanges represent that the CAC–40 warrant issues will conform to their

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regulatory body known as the Commission des Operations de Bourse ("COB") approves the rules of the Stock Exchange Council. The COB is an autonomous administrative body patterned after the U.S. Securities and Exchange Commission. It functions as the French market regulator with authority to undertake investigations, notify French judicial authorities, and levy fines.

[7] *See, infra*, notes 13 and 15, and accompanying text.

[8] Securities listed on the Paris Bourse may be traded in the cash market ("marché ou component") or on the monthly settlement market ("réglement mensuel" or "RM"). The most actively traded French stocks are traded on a monthly settlement basis. Under the monthly settlement system, transactions are firm in both price and quantity once they have been concluded, but actual cash settlement and delivery does not occur until the end of the trading month.

[9] All securities in the RM market are traded continuously. With the exception of a limited number of securities still traded on the floor by open outcry, transactions are handled by Coatation Assistée en Continu ("CAC"), a computer-assisted trading system that electronically executes and records all trades, which are made through terminals installed in brokerage firms and linked to the SBF's central computers. The CAC–40 is derived from the top issuers in terms of capitalization and trading volume within the CAC system.

[10] The SBF has appointed an independent body of experts called the Scientific Advisory Commission ("SAC") to manage the CAC. This Commission is composed of seven members (one of which must be the President of the SBF) appointed by the Stock Exchange Council. The SAC ordinarily conducts a quarterly review of the Index to ensure that its component stocks are representative of the state of the equity market for the largest French companies. Changes in the Index are generally infrequent. Since July 1984, there only have been four replacements.

[11] Specifically, the éclaireur indicates the weighted average of price variations for those stocks actually trading. These variations are the difference between the current price and the price used to calculate the last index.

[12] For instance, if at the start of a trading session only 30 of the 40 shares are trading and the market capitalization of those 10 issues not trading represent 36% of the total market capitalization of the Index, then the CAC will be substituted by the "éclaireur." meaningful measure of the French equity market: (1) The number of CAC–40 component stocks still being traded; (2) the relative weight of stocks still traded, expressed as a percentage of the aggregate market capitalization of the component CAC–40 stocks; and (3) the percentage change in market capitalization of stocks still traded with respect to their market capitalization as of the last published index. The "éclaireur" has not been limited to episodes of dramatic price movement, as well as cases of technical difficulty which arise to hinder the dissemination of last sale information.

[13] The CAC–240 General Index represents the total French equity market value. Indeed, calculations by the SBF show that the correlation of the monthly price settlement between the CAC–40 and the CAC–240 General Index is 97%. *See* "Paris Bourse Index CAC–40—A New Base for Futures and Options Traded on the MATIF and the MONEP," August 1988, at 2. Moreover, the index's component stocks are highly capitalized as the mean and median capitalization for the 40 firms (as of June 29, 1990) was 23.44 billion French francs ($4.71 billion dollars) and 15 billion francs ($2.67 billion dollars), respectively. The U.S. dollar/French franc exchange rate used for these calculations was $.17808 per French franc on June 29, 1990.

[14] As of June 29, 1990, the five most heavily weighted stocks in the CAC–40 were: Société Nationale ELF–Aquitaine (7.82%); Compagnie Générale d'Electricité (7.02%); Louis Vuitton Moët Hennessy—LVMH (5.86%); Compagnie Financiére de Suez (5.57%); and Compagnie Générale des Eaux (5.12%). In addition, these issues represent the following respective business sectors: (1) Raw materials; (2) capital goods; (3) food products; (4) financial companies; and (5) services.

[15] In addition, most issues are among the most actively traded on the Paris Bourse with the mean and median average daily trading volume for the 40 issues of 71,863 and 29,500 shares, respectively.

[16] *See* Securities Exchange Act Release Nos. 26152 (October 3, 1988), 53 FR 39832 ("AMEX Index Warrant Approval Order"); 28153 (June 26, 1990), 55 FR 27734 ("NYSE Index Warrant Approval Order"); 28266 (July 26, 1990), 55 FR 31275 ("PHLX Index Warrant Approval Order"); and 28034 (May 22, 1990), 55 FR 22001 ("PSE Index Warrant Approval Order") (collectively, "Index Warrant Approval Orders"). With the exception of some minor differences, these guidelines are uniform.

respective index warrant listing guidelines.[17] Specifically, the listing guidelines of the Exchanges require that: (1) The issuer shall have assets in excess of $100,000,000 and otherwise substantially exceed the respective Exchange's size and earnings requirements; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance;[18] and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders,[19] and have an aggregate market value of $4,000,000.[20]

The Exchanges propose that the CAC–40 warrants will be direct obligations of their issuer subject to cash-settlement during their term, and either exercisable throughout their life (*i.e.*, American style) or exercisble only on their expiration date (*i.e.*, European style). Upon exercise, or at the warrant expiration date (if not exercisable prior to such date), the holder of a warrant structured as a "put" would receive payment in U.S. dollars to the extent that the CAC–40 Index has declined below a pre-stated cash settlement value. Conversely, holders of a warrant structured as a "call" would, upon exercise or at expiration, receive payment in U.S. dollars to the extent that the CAC–40 Index has increased above the pre-stated cash settlement value. If "out-of-the-money" at the time of expiration, the warrants would expire worthless.

Because index warrants are derivative in nature and closely resemble index options, the Exchanges have proposed safeguards that are designed to meet the investor protection concerns raised by the trading of index options. First, the Exchanges propose to apply their options suitability standards to index warrant recommendations and the requirement that discretionary orders in index warrants by approved on the day entered by a Senior Registered Options Principal ("SROP") or a Registered Options Principal ("ROP"). In addition, the Exchanges have recommended that the CAC–40 warrants only be sold to options approved accounts. Moreover, the Exchanges, prior to commencement of trading of CAC–40 warrants, will distribute a circular to their membership calling attention to the specific risks associated with warrants on the CAC–40.

III. Discussion

The Index warrants are the first derivative instruments to be traded on a U.S. exchange that are based on a stock index comprised exclusively of French stocks. The Commission believes that the availability of warrants on the Index is consistent with section 6(b)(5) of the Act in that it should help remove impediments to a free and open securities market and facilitate transactions in securities because the Index warrants will provide investors a means by which to hedge against investment decisions made in the French equity market and a surrogate instrument for trading the French securities market.[21] In particular, CAC–40 warrants will benefit U.S. investors by allowing them to obtain differential rates of return on a capital outlay if the CAC–40 moves in a favorable direction within a specified time period. Of course, if the CAC–40 moves in the wrong direction or fails to move in the right direction, the warrants will expire worthless and the investors will have lost their entire investment. Thus, the trading of warrants on the CAC–40 Index will provide investors with a valuable hedging vehicle that should reflect accurately the overall movement of the French equity market.

The Commission further believes that the CAC warrants are consistent with the generic Index Warrant Approval Orders of the Exchanges. Nevertheless, the trading of warrants on the Index raises several concerns, namely issues related to customer protection, index design, surveillance and market impact. The Commission believes, for the reasons discussed below, that the Exchanges adequately have addressed these concerns.

A. Customer Protection

Due to the derivative nature of index warrants, the Commission believes that CAC–40 warrants only should be sold to investors capable of evaluating and bearing the risks associated with trading in such instruments and that adequate risk disclosure is made to investors. In this regard, the Commission notes that the rules and procedures of the Exchanges that address the special concerns attendant to the secondary trading of index warrants will be applicable to the CAC–40 warrants. In particular, by imposing the special suitability disclosure, and compliance requirements noted above, the Exchanges have addressed adequately potential public customer problems that could arise from the derivative nature of CAC warrants. Moreover, the Exchanges plan to distribute circulars to their members calling attention to the specific risks associated with warrants on the CAC and, pursuant to each exchange's listing gidelines, only substantial companis capable of meeting their warrant obligations will be eligible to issue CAC warrants.[22]

In order to be eligible for trading of warrants pursuant to the Generic Index Warrant Approval Orders, an index must not raise significant manipulative or other trading abuse concerns. In light of the design of the Index and its component securities,[23] the Commission believes that the CAC is broad-based index of actively traded, well-capitalized stocks. As described more thoroughtly above, the Index is comprised of eight industry sectors, the largest of which accounts for 23% of the Index. In addition, the stocks contained in the Index are selected from the top 100 stocks traded on the Paris Bourse and, as such, are among the most highly-capitalized and activitely traded.[24] Moreover, no stock or small group of stocks accounts for a substantial portion of the Index. Accordingly, the Commission believes that the broad diversification, large capitalization and liquid markets of the Index's component stocks significantly minimize the potential for manipulation of the Index.

C. Surveillance

As a general matter, before approving a new derivative product, the

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[17] *See* section 106 of the AMEX *Company Guide*; NYSE section 703.17 of its *Listed Company Manual*; PHLX Rule 803; and PSE Rule I, Section 3(b).

[18] The NYSE CAC–40 filing (SR–NYSE–90–36) does not limit the duration of the warrants to five years but states that they shall be for a period of at least one year.

[19] The NYSE CAC–40 filing (SR–NYSE–90–36) calls for a minimum distribution of 1,100,000 warrants instead of the 1,000,000 required by the other exchanges.

[20] In addition, the PHLX and PSE propose to trade CAC–40 warrants on an unlisted trading privilege basis. To do so, the PHLX and PSE would have to make a separate application under section 12(f) of the Act.

[21] Pursuant to section 6(b)(5) of the Act the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for maniupulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[22] The terms of the warrant issuances may vary as to whether the éclaireur value or a prior or subsequent regular calculaton of the CAC–40 Index is used for settlement purposes if the Index is replaced by an éclaireur on expiration day. Before listing a CAC–40 Index warrant, and Exchange should be satisfied that the relevant disclosure documents explain clearly the calculation procedures for settlement determination, and the Exchanges should make efforts to ensure that their members are aware of the Index calculation procedures.

[23] *See supra*, notes 13–14 and accompanying text.

[24] *See supra*, notes 14–15 and accompanying text.

Commission requires that a surveillance sharing agreement be in place between the exchange that proposes to trade the derivative product and the exchange where the underlying shares are traded. The Commission believes that such an agreement is a critical component of any program aimed at detecting and deterring potential intermarket manipulation.

Due to the fact that the CAC is a foreign index, the Commission believes adequate surveillance sharing agreements between the Exchanges and the Paris Bourse are a necessary prerequisite to deter and detect potential manipulations or other improper or illegal trading involving the warrants. To address this concern, the Exchanges have entered into separate surveillance sharing agreements with the SBF that provide for the exchange of information relating to the trading of CAC warrants on the Exchange and trading in the component securities of the Index on the Paris Bourse.[25] These agreements obligate the Exchanges and SBF to compile and transmit market surveillance information and to resolve in "good faith" any disagreements regarding requests for information in response thereto.

Despite the surveillance sharing agreements between the Exchanges and SBF, the SBF asserts that the French blocking statute [26] restricts its ability to supply the U.S. exchanges with the necessary customer trading information related to trading on the Paris Bourse.[27] Therefore, in order to obtain customer information, the Commission and the COB have exchanged letters that establish a mechanism for the exchange of information, including customer information, for transactions involving a derivative security or the stocks underlying such security when a derivative security is traded in U.S. or French markets and the underlying securities are traded in the other country's markets.[28] This SEC/COB letter exchange confirms that the SEC will be able to secure information not obtainable from the SBF, and thus ensure that an investigation can occur with access to all necessary surveillance information.[29] Accordingly, the Commission believes the arrangement made pursuant to the SEC/COB exchange of letters, together with agreements consummated by the Exchanges with the SBF, are adequate to allay Commission concerns regarding the Commission and/or Exchanges' ability to obtain information necessary to take appropriate regulatory action regarding alleged manipulation or other trading abuses between markets involving the trading of CAC warrants.

D. Market Impact

The Commission believes that the listing and trading of CAC–40 Index warrants on the Exchanges will not adversely impact the securities markets in the U.S. or France.[30] First, the existing index options surveillance procedures of the Exchanges will apply to warrants based on the CAC Index. Second, the Commission notes that the Index is broad-based and diversified and includes highly capitalized securities that are actively traded on the Paris Bourse.[31] Third, the Commission notes that at the present time, index options and futures contracts based on the CAC–40 are traded on French exchanges,[32] and that numerous warrant and off-exchange options are traded worldwide on the CAC–40.[33] Accordingly, the Commission does not believe that the introduction of CAC–40 warrants by the Exchanges will have a significant effect on the underlying French securities market.

IV. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6(b)(5).[34]

It therefore is ordered, pursuant to section 19(b)(2) of the Act,[35] that the proposed rule changes (SR–AMEX–90–08; SR–NYSE–90–36; SR–PHLX–90–25; and SR–PSE–90–18) are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[36]

Dated: October 17, 1990.

Margaret H. McFarland,

Deputy Secretary.

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[25] The SBF, as the body charged with enforcing the rules applicable to the Paris Bourse, would be the appropriate SRO with which to enter into a surveillance sharing arrangement.

[26] A blocking statute prohibits the disclosure, inspection, copying and removal of documents located in the enacting state in compliance with orders of foreign authorities. *See,* The 1980 French Law on Documents and Information, Law No. 80–538 (1980) J.O. 1799.

[27] In this regard, the SBF asserts that it does not have the legal capacity to obtain specific customer information, but instead, must rely on the COB. The COB is prohibited from furnishing customer information to a non-governmental body, such as the Exchanges. As described below, pursuant to a letter exchange between the SEC and the COB, the COB confirms that it will furnish customer information directly to the Commission.

[28] *See* letter from Richard Ketchum, Director, Division of Market Regulation, SEC, to Patrick Mordacq, Secretary General, COB, dated September 18, 1990; and letter from Patrick Mordacq, Secretary General, COB, to Richard Ketchum, Director, Division of Market Regulation, SEC, dated September 18, 1990.

[29] The SEC entered into an Administrative Agreement with the COB on December 14, 1989. Despite the fact that such agreement has not formally entered into force, both countries have been operating informally in accordance with the principles set forth in that agreement. This cooperative effort on the part of both U.S. and French officials has expanded the availability of information with respect to investigations of possible securities law violations in both countries. To further this end, the Agreement establishes a system of mutual assistance, to facilitate the exchange of such information when requested by either country, in connection with an inquiry into insider trading, market manipulation or other possible securities law violations.

[30] The CAC–40 Index contains 11 stocks which are available on an American Depository Receipt ("ADR") basis. These ADRs are traded over-the-counter ("OTC") except for Club Méditerranée, which is listed on the NYSE. An ADR is a receipt for the shares of a foreign-based corporation held in the vault of a U.S. bank and entitling the shareholder to all dividends and capital gains. Instead of purchasing shares of a foreign-based corporation in overseas markets, a U.S. investor can buy shares in the U.S. in the form of such ADR.

[31] *See* discussion of the Index's composition, *supra,* at pp. 6–7.

[32] Options on the CAC–40 are traded on the Marché des opérations négociables de Paris ("MONEP"), the Paris traded options market, and futures on the CAC–40 are traded on the Marché à Terme d'Instruments Financiers ("MATIF"), the French financial futures market.

[33] The CAC will be widely and publicly disseminated by various market information systems and the print media.

[34] 15 U.S.C. 78f(b)(5) (1982).

[35] 15 U.S.C. 78s(b) (1982).

[36] 17 CFR 200.30–3(a)(12) (1989).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Inc.

October 15, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

American Waste Services, Inc.
Class A Common Stock, No Par Value (File No. 7–6260)

Cadence Design Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–6261)

Diagnostek, Inc.
Common Stock, $.01 Par Value (File No. 7–6262)
Emerging Mexico Fund, Inc.
Common Stock, $.10 par Value (File No. 7–6263)
Sanifill, Inc.
Common Stock, $.01 Par Value (File No. 7–6264)
Medusa Corporation
Common Stock, No Par Value (File No. 7–6265)
Silicon Graphics, Inc.
Common Stock, $.001 Par Value (File No. 7–6266)
Suave Shoe Corporation
Common Stock, $.01 Par Value (File No. 7–6267)
Wahlco Environmental Systems, Inc.
Common Stock, $.01 Par Value (File No. 7–6268)
Safeway, Inc.
Common Stock, $.01 Par Value (File No. 7–6269)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 5, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

October 15, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Dycom Industries, Inc.
Common Stock, $.33 1/3 Par Value (File No. 7–6270)
Old Republic International Corp.
Common Stock, $1.00 Par Value (File No. 7–6271)
Storage Properties, Inc.
Common Stock, $.05 Par Value (File No. 7–6272)
Go Video, Inc.
Common Stock, $.001 Par Value (File No. 7–6273)
Martin Lawrence Limited Editions, Inc.
Common Stock, $.01 Par Value (File No. 7–6274)
Alliant Techsystems, Inc.
Common Stock, $.01 Par Value (File No. 7–6275)
Cipsco Incorporated Holding Company
Common Stock, $.01 Par Value (File No. 7–6276)
Esco Electronics Corporation
Common Stock Trust Receipts, No Par Value (File No. 7–6277)
Patriot Premium Dividend Fund I (Massachusetts Business Trust)
Common Stock, $.01 Par Value (File No. 7–6278)
American Waste Services, Inc.
Class A Common Stock, No Par Value (File No. 7–6279)
RJR Nabisco, Inc.
Cumulative Convertible Preferred Stock, $.01 Par Value (File No. 7–6280)
Venture Stores, Inc.
Common Stock, $1 Par Value (File No. 7–6281)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 5, 1990, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24928 Filed 10–22–90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–28539; File No. SR–NASD–90–38]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to the Establishment of a Permanent Subscriber Fee for the National Quotation Data Service.

On July 9, 1990, the National Association of Securities Dealers, Inc. ("NASD") submitted a proposed rule change (File No. SR–NASD–90–38,[1] to the Securities and Exchange Commission ("Commission" or "SEC") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[2] to establish a permanent charge of $50.00 per month for subscribers to the National Quotation Data Service ("NQDS" or "Service").[3] No comments were received in response to this proposal. This order approves the proposed NQDS fee.

The NQDS service will incorporate individuals market maker quotations, Level 1 or "inside" quotations in NASDAQ and NASDAQ/NMS Last Sale information into a combined or "bundled" feed that will be supplied to NQDS vendors. This charge will apply to every interrogation or display device receiving the NQDS from an authorized vendor. Certain vendors of securities information have contracted with the NASD to receive this broadcast and distribute the information through their communications networks to interested subscribers. The NASD stated that the

[1] *See* Securities Exchange Act Release No. 28200, July 12, 1990, 55 FR 29446.

[2] 15 U.S.C. 78s(b)(1) (1982).

[3] NASDAQ, Inc. disseminates a variety of market data on approximately 5,400 securities that are authorized for inclusion in the NASDAQ system. NASDAQ level 1 service can access the inside market (*i.e.*, the best bid and offer) for any NASDAQ security during the trading day. NASDAQ Level 2 service consists of all market makers' bids and offers for all NASDAQ securities. NASDAQ Level 3 provides the same information as Level 2, with an update capability for market makers to enter quotations. The NQDS service consists of the same quotation information as Level 2 but is provided to vendors in the form of a data stream rather than a preformatted display of information. The vendor, therefore must arrange the quotation information for retrieval and display by subscribes. The NASD also disseminates last sale information on NASDAQ/National Market System ("NMS") securities.

proposed fee is structured to recoup the costs attributable to the NASD's collection, validation, and distribution of NQDS data to vendors. These costs would be recovered by assessing the proposed fee against the vendors' subscribers on a per terminal basis.

At present, NQDS subscribers pay a monthly charge of $8.75 for each terminal device receiving NQDS. That charge was established by the Commission on an interim basis pending the NASD's development of a cost-based charge for the NQDS. The interim charge resulted from a lengthy series of legal proceedings which culminated with a United States Court of Appeals decision [4] upholding a Commission order issued on April 17, 1984.[5]

I. Description of Prior Proceedings

In June of 1983, the NASD made its initial rule filing with the Commission to establish an intended schedule of fees for provision of the NQDS service.[6] The 1983 fee proposal called for a $3,200 per month vendor fee to recover the Association's costs of transmitting NQDS data, on a computer-to-computer interface, to an interested vendor. The 1983 fee proposal also provided that NQDS subscribers (*i.e.*, customers of any vendor marketing the NQDS service) would pay the NASD a monthly fee of $150/terminal for receipt of NQDS data, the same fee paid by all Level 2/3 subscribers. On July 15, 1983, the sole vendor interested in marketing the NQDS service filed a petition with the Commission, pursuant to section 11A(b)(5) of the Act, alleging that the proposed fees constituted an inappropriate limitation or prohibition on access to services provided by the NASD as an exclusive processor of securities information.

The ensuring proceedings resulted in the Commission issuing the April Order,[7] which, other things, found that: (1) The $3,200/month vendor fee was not an inappropriate prohibition or limitation on vendor access to the NQDS service under section 11A(b)(5) of the Act; [8] (2) the imposition of a charge based on the number of terminals subscribing to the NQDS service would not constitute an inappropriate prohibition or limitation on access to the NQDS service; (3) the proposed NQDS subscriber fee of $150/terminal/month contravened section 11A(b)(5) because it included the cost of operating the Level 2/3 query function, which was not included in the NQDS service to be provided to the vendor; and (4) in formulating an acceptable subscriber fee for NQDS service, the NASD may recover only those costs of operating a "pass-through" system that collects, validates, and prepares quotations for shipment to vendors.

During the latter half of 1984, the NASD filed two motions requesting the Commission's reconsideration of the April Order. Both were rejected.[9] the NASD then petitioned the United States Court of Appeals for the District of Columbia for review of the April Order. The Circuit Court affirmed the Commission's action in September of 1986.[10]

On July 31, 1985, the NASD submitted a rule filing proposing a subscriber fee of $79/terminal/month for NQDS service.[11] After publication of notice and receipt of comments on the proposed rule change, the Commission instituted proceedings, pursuant to section 19(b)(2)(B) of the Act, to determine whether to disapprove the 1985 fee proposal on the basis that it was inconsistent with the April Order and section 15A(b)(5) of the Act.[12]

On July 29, 1988, the NASD withdrew the 1985 fee proposal and submitted a new proposed rule change to establish a permanent charge of $50.75 per month for subscribers to the NQDS.[13] The proposed fee elicited adverse commentary submitted on behalf of NQDS vendors, however.[14] In response, the NASD sought to negotiate a fee with the NQDS vendors that would effectively recover expenses associated with the delivery of the Service while addressing the concerns of those vendors. Accordingly, on July 9, 1990, the NASD submitted a new fee proposal [15] and withdrew the 1988 fee proposal.

II. The NASD's Cost Allocation in Support of 1988 Fee Proposal

The NASD incorporated into the instant filing the financial statements submitted to the Commission in 1988 in support of the proposed $50.75 fee for a NQDS-only vendor feed. The Commission has reviewed those documents, as well as the two comment letters submitted in the earlier proposal, in its consideration of the current $50.00 fee the NASD has proposed to charge for the bundled service consisting of NQDS, Level 1 and last sale data.

In earlier proceedings on this matter, the Commission determined that an acceptable fee would be one composed solely of the costs incurred by the NASD (or its operating subsidiaries) in collecting, validating, and preparing NQDS information for transmission to a vendor.[16] The Instinet and Bridge comment letters argued, however, that the NQDS proposed fee failed to comply with the Commission's prior orders, which required that any difference in the fee for NQDS data over that charged for the NASDAQ Level 1 must be based on "demonstrable differences in cost" between the two services, and that any higher NQDS fee must reflect the functional apportionment of total costs to the particular service to which the costs relate. The commenters further noted that the NASD failed to explain why its NQDS costs differed from its Level 1 fee and questioned its methodology in the allocation of costs to update quotations.

III. Discussion

The Commission has determined to approve the NASD's proposed rule change because the Commission believes the new fee for NQDS is

[4] ASD v. SEC, 801 F.2d 1415 (DC Cir. 1986).

[5] Securities Echange Act Release No. 20874 (April 17, 1984), 49 FR 17640 ("Aapril Order").

[6] *See* File No. SR–NASD–83–13, Securities Exchange Act Release No. 19884 (June 17, 1983), 48 FR 29086 ("1983 fee proposal").

[7] *See* note 2, *supra.*

[8] Section 11A(b)(5) of the Act establishes a mechanism by which the Commission can review prohibitions or limitations on access to services offered by registered securities information processors. NASDAQ, Inc. is such a registered securities information processor.

[9] *See* Securities Exchange Act Release Nos. 21471 (November 8, 1984), 49 FR 45282, and 21832 (March 8, 1985), 50 FR 10565.

[10] *See* NASD v. SEC, 801 F.2d 1415 (D.C. Cir. 1986).

[11] *See* File No. SR–NASD–85–19, Securities Exchange Act Release No. 22935 (February 21, 1986), 51 FR 6957 ("1985 fee proposal").

[12] The Commission declined to find that the proposed fee was cost-based, finding that the proposal included certain costs that were contrary to the terms of the April Order. As such, the Commission did not find, pursuant to section 15A(b)(9) of the Act, that the proposed rule change did not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

[13] *See* File No. SR–NASD–88–35, Securities Exchange Act Release No. 26119, (September 27, 1988), 53 FR 39002.

[14] Letter from Daniel T. Brooks, counsel to Instinet Corporation, to Jonathan G. Katz, Secretary, SEC, dated October 25, 1988, ("Instinet letter") and letter from Stephen L. Williams, Executive Vice President, Bridge Information Systems, Inc., to Jonathan G. Katz, Secretary, SEC, dated October 31, 1988 ("Bridge letter").

[15] *See* File No. SR–NASD–90–38, Securities Exchange Act Release No. 28200, July 12, 1990, 55 FR 29446.

[16] To isolate the specific costs associated with collecting, validating, and processing of NQDS data for transmission to a vendor, the NASD identified direct operational costs relating to the physical processing of the data; systems software development and maintenance activities; and allocated overhead and general and administrative costs based on the relative percentage of direct costs allocable to these functions.

consistent with sections 11A(c)(1),[17] 15A(b)(5), (6) and (9) of the Act.[18] The NASD collects and disseminates an array of information including market makers' quotations. The NASD's distribution of such information, especially the terms under which it is distributed to different classes of users, must be guided by certain principles set forth in section 11A(c)(1). That section requires the prompt, accurate, reliable and fair collection, processing, distribution and publication of information,[19] and that all securities information processers may obtain such information on fair and reasonable terms,[20] which are not unreasonably discriminatory.[21] In addition, section 15A(b)(5) requires that the NASD's rules provide an equitable allocation of reasonable charges among members for the use of any facility or system that the NASD operates. Section 15A(b)(6) requires, among other things, that the NASD's rules be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in processing information with respect to and facilitating transactions in securities; to protect investors and the public interest; and that the NASD's rules not be designed to permit unfair discrimination between customers, brokers, or dealers. Further, section 15A(b)(9), requires that the NASD rules not impose any burden or competition that is not necessary or appropriate in furtherance of the purposes of the Act.

In its April Order, the Commission rejected the NASD's original NQDS subscriber charge of $150 per terminal per month because it was not found to be cost-based.[22] Simultaneously, the Commission authorized the interim subscriber fee of $8.75, which is the established monthly charge for terminal devices receiving Level 1 Service.[23] The Commission adopted this interim charge because of asserted similarities between NASDAQ Level 1 and NQDS: (1) both services are derived from quotation information collected from NASDAQ market makers, (2) the collected information is subject to validation processing; and (3) the processed data is broadcast to vendors for distribution to their subscribers.[24]

The April Order also held that an acceptable subscriber charge could recover the costs associated with collecting, validating, and preparing quotations for shipment to an NQDS vendor. To formulate an acceptable NQDS charge, the NASD was required to analyze the NASDAQ system functions, isolate those functional costs incurred to support the NQDS, and calculate the subscriber charge by dividing those costs among the universe of terminals receiving the NQDS. In evaluating that methodology relative to the parameters of the April Order the Commission did "not requir[e] the NASD to prepare an economically perfect allocation of relevant costs, but only a reasonable allocation based on the best available information.[25]

In reviewing the fairness and reasonableness of the proposal, the Commission finds it significant that the proposed fee of $50.00 is the result of negotiations among the concerned parties after protracted proceedings. Based on the Commission's review of the NASD's financial submissions, the Commission finds that by expanding the categories of information provided to vendors and reducing the charge to $50.00, the NASD has proposed a fee that reasonably reflects the costs attributable to collecting, validating and preparing the information for transmission to vendors.

IV. Conclusion

The Commission believes that the $50.00 charge submitted by the NASD, as a term of access to NQDS information, satisfies the statutory standards outlined above, as well as the terms of the April Order. The Commission, therefore, has concluded that it is appropriate to approve the NQDS fee of $50.00.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Dated: October 15, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24971 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

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[17] 15 U.S.C. 78k-1 (1982).

[18] 15 U.S.C. 78o-3 (1982).

[19] Section 11A(c)(1)(B).

[20] Section 11A(c)(1)(C).

[21] Section 11A(c)(1)(D).

[22] The NASD also charges $150 for subscription to NASDAQ Level 2 Service. Like NQDS subscribers, NASDAQ Level 2 subscribers can obtain the prevailing quotes displayed by all market makers in any NASDAQ security.

Originally, the NASD maintained that the monthly subscriber fee charged for Level 2 should apply to NQDS in that both services were built upon the same elements of information. The Commission specifically rejected the value-of-service approach to pricing because it would have resulted in NQDS subscribers paying for processing functions that were not integral to the Service.

[23] Terminal devices authorized for NASDAQ Level 1 Service can access the inside market (*i.e.*, the best bid and offer) for any NASDAQ security during the trading day. This service is marked exclusively through vendors that take the NASD's Level 1 data feed, reprocess the information, and distribute it through private communications networks to their subscribers. Although the NQDS is distributed in the same manner, the NQDS feed provides more information.

[24] The Commission's intent is clearly indicated in the following except from the April Order:

To ensure that such a processor's services are made available on reasonable and nondiscriminatory terms, the Commission believes that * * * where an exclusive processor supplies information to other vendors and competes with those vendors in providing information and terminal devices, the exclusive processor's fees should be based strictly on the expenses that it incurs in providing information to vendors.

April Order, *supra* note 54, at 17650.

[25] *Id.*

[26] 17 CFR § 200.30-3(a)(12).

[Release No. 34-28540; File No. SR-NYSE-90-44]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Exchange Rule 103A—Specialist Stock Reallocation

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 25, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to Exchange Rule 103A which will add performance standards relating to the Exchange's Specialist Performance Evaluation Questionnaire ("SPEQ").[1]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

[1] The SPEQ, which was last revised in February, 1990 (*see* note 4, *infra*), is a quarterly survey on specialist performance completed by eligible floor brokers (*i.e.*, any floor broker with at least one year of experience). The SPEQ requires floor brokers to rate, and provide written comments on, the performance of specialist units with whom they deal frequently.

and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

III. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange Rule 103A specifies performance standards for specialists and provides for the initiation of a formal "Performance Improvement Action" in any case where a specialist unit does not meet a performance standard specified in the Rule.[2] NYSE Rule 103A historically has contained performance standards applicable to the SPEQ for both a specialist unit's overall rating result and its results on the different functional categories under which specific questions are grouped.[3]

Effective with the first quarter 1990, the Exchange implemented the new, current SPEQ process which was approved by the Commission on February 5, 1990.[4] The former SPEQ produced raw scores, whereas the scoring methodology on the new SPEQ, as described below, gives specialists their overall rank among all specialist units, and their range of ranks which shows their comparability to other units. Accordingly, the performance standards relating to the previous SPEQ that had been incorporated into NYSE Rule 103A could not be applied to the new SPEQ because the scoring methodology had been changed. The Exchange, therefore, received Commission approval to eliminate the standards applicable to the former SPEQ from NYSE Rule 103A with the understanding that the Exchange would adopt and file with the Commission, as a proposed rule change, minimum relative performance standards so that specialists who are regularly among the lowest ranked units on a relative basis would be subject to performance improvement actions.[5] Pursuant to this understanding, the revised standards were to be filed with the Commission after the new SPEQ had been administered for two quarters. The proposal being considered herein sets forth these revised standards.

Scoring Methodology

The scoring methodology for the new SPEQ produces two types of results. Specialist units are informed as to how they rank on an overall basis, and in each of the five functions (Dealer, Service, Competitiveness, Communication, and Administrative), among all specialist units. Currently, there are 46 specialist units on the Exchange. A unit might, for example, receive a rank of 20 on an overall basis, and a rank of 22 on a particular function, meaning that it ranked 20 out of 46 units overall, and 22 out of 46 on that function.

Specialist units also receive a "range of ranks" on an overall basis and for each function. This scoring methodology allows a unit to determine whether its scores are statistically significantly different from the scores received by other specialist units. For example, a unit might receive an overall rank of 20, with a range of ranks from 17 to 25. This means that the unit ranked 20th out of 46 units, but its scores were roughly comparable to a unit ranked as high as 17, and as low as 25.

Proposed Performance Standards

The Exchange proposes that a unit be subject to the initiation of a Performance Improvement Action where its overall rank placed it in the bottom 10% of all units, and its range of ranks placed it in the bottom 15% of all units, for any quarter. For example, a unit ranked 43 out of 46, with a range of ranks from 40 to 46, would have been placed in the bottom 10% in overall ranking and its range of ranks would place it in the bottom 15%, as this range indicates that the unit is not statistically significantly different from a unit rated no higher than 40 (which is the bottom 15%). Thus, a unit receiving such results would be subject to a Performance Improvement Action.

Regarding scores for particular functions, a unit would be subject to a Performance Improvement Action under NYSE Rule 103A if *in any quarter* the unit received an overall rank in the bottom 10%, and a range of ranks in the bottom 15%, *for two or more functions.* A unit would also be subject to a Performance Improvement Action if it received an overall rank in the bottom 10%, and a range of ranks in the bottom 15%, for the *same function* in *two consecutive quarters.*

Two quarters of experience with the new SPEQ indicates that under the proposed standards no unit would have been subject to a Performance Improvement Action based on its overall score in the first two quarters of 1990. One unit did, however, fall into the bottom 10% in its rank and the bottom 15% in its range of ranks in two functions in the first quarter. Under the new standards, therefore, the unit would have been subject to a Performance Improvement Action. Additionally, in the second quarter, two units fell into the bottom 10% in their ranks and the bottom 15% in their range of ranks for one function. If these units repeated this performance for the same function in the following quarter, they also would be subject to a Performance Improvement Action.

In addition to the proposed new performance standards, the Exchange's Market Performance Committee will continue to have the authority to engage in counseling sessions with units when appropriate. This Committee also will continue to impose allocation freezes (*i.e.*, periods during which a unit is not permitted to apply to be a specialist for a newly listed security) where appropriate to improve performance even if no Performance Improvement Action is mandated by the standards of NYSE Rule 103A.

(2) Statutory Basis

The proposed rule change is consistent with section 6(b)(5) under the Act which requires that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and in general, to protect investors and the public interest. The proposed amendments to Rule 103A are consistent with these objectives in that they facilitate high quality specialist performance through the Exchange's performance improvement process.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not

[2] Under NYSE Rule 103A, a specialist's performance is measured by a combination of SPEQ scores and objective standards of performance (*e.g.*, timeliness of regular openings; promptness in seeking floor official approval of non-regulatory delayed openings; and responses to administrative messages).

[3] Currently, the SPEQ is comprised of 21 questions which are grouped under the following five functional categories: the Dealer Function, the Communications Function, the Adminstrative Function, the Service Function and the Competitiveness Function. The Dealer, Service, and Competitive Function categories are each accorded a percentage weight of 30% on the SPEQ, while the Communications and Adminstrative Function sections have a percentage weight of 5% each.

[4] *See* Securities Exchange Act Release No. 27675 (February 5, 1990), 55 FR 4922 (order approving File No. SR–NYSE–89–32).

[5] *See* Securities Exchange Act Release No. 28215 (July 17, 1990), 55 FR 30060 (notice of filing and order granting accelerated temporary approval to File No. SR–NYSE–90–24).

necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

Within 35 days of the date of publication of this notice in the **Federal Register** or within such other period (i) as the Commisssion may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC, 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-90-44 and should be submitted by November 13, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 16, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24972 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-28541; File No. SR-NYSE-90-47]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Fees for Fingerprint Processing

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 1, 1990, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE, pursuant to Rule 19b-4 of the Act, submitted a proposed rule change to amend its plan for fingerprinting pursuant to Rule 17f-2(c) under the Act. The Exchange proposes to increase its fingerprint processing fee from $21.50 to $24.50 per fingerprint card processed.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Pursuant to a plan filed with the Commission under SEC Rule 17f-2(c), the Exchange acts as a processor of fingerprints for its members and others and channels fingerprint cards and attendant payments to the Federal Bureau of Investigation ("FBI"). The purpose of the proposed rule change is to pass along the FBI's increase in the user fee for processing fingerprint cards.

Effective October 1, 1990, the FBI increased its fee for processing fingerprint cards from $20.00 to $23.00 per card. The FBI is increasing its fee due to its increased costs for fingerprint processing, including rising personnel costs. Accordingly, the Exchange proposes to amend its plan as follows: $24.50 per fingerprint card processed, consisting of $23.00 per fingerprint card for FBI processing and $1.50 per fingerprint card for Exchange processing. The NYSE's current $1.50 charge per fingerprint card for Exchange processing, therefore, will remain constant.

The statutory basis for the proposed rule change is section 6(b)(4) of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among NYSE members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–90–47 and should be submitted by November 13, 1990.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 16, 1990.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24973 Filed 10–22–90; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

October 15, 1990.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Compania de Telefonos de Chile S.A.
American Depositary Shares (File No. 7–6282)

ACM Managed Multi-Market Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7–6283)

Allstate Municipal Income Opportunities Trust II
Shares of Beneficial Interest, $0.01 Par Value (File No. 7–6284)

American Government Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6285)

American Government Income Portfolio, Inc.
Common Stock, $0.01 Par Value (File No. 7–6286)

American Government Term Trust, Inc.
Common Stock, $0.01 Par Value (File No. 7–6287)

Colonial Intermediate High Income Fund
Shares of Beneficial Interest, No Par Value (File No. 7–6288)

Colonial InterMarket Income Trust I
Shares of Beneficial Interest, No Par Value (File No. 7–6289)

High Yield Plus Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6290)

High Yield Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6291)

Nuveen California Municipal Income Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7–6292)

Oppenheimer Multi-Government Trust
Shares of Beneficial Interest, $0.01 Par Value (File No. 7–6293)

Putnam High Income Convertible and Bond Fund
Shares of Beneficial Interest, No Par Value (File No. 7–6294)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before November 5, 1990, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90–24929 Filed 10–22–90; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–25167]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 12, 1990.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 5, 1990 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Entergy Corporation, et al. (70–7798)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, Arkansas Power & Light Company ("AP&L"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, Louisiana Power & Light Company ("LP&L"), 317 Baronne Street, New Orleans, Louisiana 70112, Mississippi Power & Light Company ("MP&L"), 308 East Pearl Street, Jackson, Mississippi 39201, New Orleans Public Service Inc. ("NOPSI"), 317 Baronne Street, New Orleans, Louisiana 70112 (collectively, "Operating Companies"), System Fuels, Inc. ("SFI"), 639 Loyola Avenue, New Orleans, Louisiana 70113, System Energy Resources, Inc. ("SERI"), 1340 Echelon Parkway, Jackson, Mississippi 39213, Entergy Operations, Inc. ("EOI"), 1340 Echelon Parkway, Jackson, Mississippi 39213 and Entergy Services, Inc. ("Services"), 639 Loyola Avenue, New Orleans, Louisiana 70113 (collectively, "Participating Companies"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, and 12(b) of the Act and rules 40, 43 and 50(a)(5) thereunder.

Each of the Participating Companies propose, through November 30, 1992, to lend money to the Entergy system money pool ("Money Pool"). The Operating Companies, SERI, SFI, EOI, and Services further propose, through November 30, 1992, to borrow from the Money Pool and in the cases of the Operating Companies and SERI, to issue unsecured promissory notes to banks ("Notes") and commercial paper to commercial paper dealers ("Commercial Paper").

Total borrowings through the Money Pool by Services, EOI and SFI will not

exceed, at any one time outstanding, amounts equal to the aggregate unused portions of lines of credit then available to these companies and/or other borrowing arrangements approved by the Commission. Total borrowings by the Operating Companies and SERI through the Money Pool, the issuance and sale of the Notes and Commercial Paper will not exceed: (1) $240 million for AP&L; (2) $260 million for LP&L; (3) $110 million for MP&L; (4) $35 million for NOPSI and (5) $290 million for SERI, in any combination thereof.

The Notes will mature in less than one year from the date of issuance, at an effective interest rate cost of approximately 11.1%, based on a base lending rate of 10%. The Commercial Paper will be in the form of unsecured promissory notes having varying maturities of not in excess of 270 days. The Operating Companies and SERI have requested an exception from the competitive bidding requirements of Rule 50 pursuant to subsection (a)(5) so that they may be authorized to carry out negotiations for the terms of the placement of the commercial paper. They may do so.

The proceeds from the proposed borrowings will be used to provide interim financing for construction expenditures, to fund long-term debt maturities and sinking fund requirements, and in the case of AP&L and MP&L, to finance deferred costs associated with their respective retail rate phase-in programs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24931 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17800; 811-4346]

Bench Portfolios Fund; Application

October 16, 1990.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for Deregistration under the Investment Company Act of 1940 ("1940 Act").

APPLICANT: Bench Portfolios Fund.

RELEVANT 1940 ACT SECTIONS: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be investment company.

FILING DATE: The application was filed on July 30, 1990, and amended on September 28, 1990, and October 12, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on Novermber 13, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 222 Bridge Plaza South, Fort Lee, New Jersey 07024.

FOR FURTHER INFORMATION CONTACT: Barbara Chretien-Dar, Staff Attorney, at (202) 272-3022, or Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or from the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 738-1400).

Applicant's Representations

1. Applicant, an open-end investment company organized as a Massachusetts trust, registered under the 1940 Act on July 13, 1985. On the same date, it filed a registration statement with respect to an indefinite number of shares under the Securities Act of 1933, which registration statement was declared effective on January 31, 1986. Applicant offered two portfolios: Total Return Equity Portfolio and Blue Chip Portfolio.

2. On September 19, 1989, pursuant to offices of settlement from applicant's investment adviser, Bench Group, Inc., and from the investment adviser's president, Nachman Bench, the SEC issued an order imposing remedial sanctions on the investment adviser and Mr. Bench for violations of various provisions of the 1940 Act and the Investment Advisers Act of 1940 (the "Advisers Act").[1]

[1] *See* Administrative Proceeding File No. 3-7260, Investment Advisers Act Rel. No. 1202, Investment Company Act Rel. No. 17141 (September 19, 1989).

3. The order naming Mr. Bench as respondent found that he violated section 17(a) of the 1940 Act; that he aided and abetted violations of sections 15(a), 17(f), 17(g), 17(j), 22(c), 22(e), 31(a), and 32(a) and Rules 17f-4, 17g-1, 17j-1, 22c-1 and 31a-1 under the 1940 Act; that he violated section 204 and 206(3) of the Advisers Act and rules 204-1, 204-2, 204-3, and 206(4)-1 thereunder. The order bars him from serving or acting as an employee, officer, director, member of an advisory board, investment adviser of, depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter and compels him to refrain, for a period of six months, from soliciting or accepting new advisory clients.

4. The order naming the investment adviser as respondent found that the adviser violated section 15(a) and 17(a) of the 1940 Act and sections 204 and 206(3) of the Advisers Act and rules 204-1, 204-2, 204-3, and 206(4)-1 thereunder. The order permanently prohibits the investment adviser from, among other things, serving or acting as an investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter, and compels the adviser to refrain, for a period of six months, from soliciting or accepting new advisory clients.

5. On or about October 19, 1987, applicant began experiencing mass redemptions by its shareholders. Redeeming shareholders received net asset value for their shares. At January 1, 1989, the Blue Chip Portfolio had 484,192 shares outstanding with a per share net asset value of $7.78, and the Total Return Equity Portfolio had 6,174 shares outstanding with a per share net asset value of $0.30. By April 3, 1989, the sole shareholder remaining was applicant's investment adviser. Portfolio securities were sold at market value to meet redemption requests and commissions were paid by applicant at the rate of $0.10 per share.

6. On February 3, 1989, applicant's board of trustees authorized and recommended for shareholder approval applicant's liquidation. The liquidation of applicant was approved by the sole shareholder on June 30, 1989. Legal and accounting fees incurred in connection with the liquidation were paid by the applicant's investment adviser.

7. Applicant retains no assets and has no further liabilities. Applicant has no knowledge of any other litigation or administrative proceedings to which it is

a party. Applicant has no remaining shareholders other than the investment adviser.

8. Applicant is not now engaged, nor does it propose to engage, in any investment comany activities other than those necessary for the winding-up of its affairs. Applicant intends to file articles of dissolution under Massachusetts law.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25024 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 35-25171]

Filings; Indiana Michigan Power Co. and Allegheny Generating Co.

October 18, 1990.

The period to comment or request a hearing on the proposals by Indiana Michigan Power Company (70-7714) and Allegheny Generating Company (70-7548) contained in Release No. 35-25163, which was published in the October 17, 1990 **Federal Register** (55 FR 42,140), has been extended from October 29, 1990 to November 1, 1990.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-25019 Filed 10-23-90; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 17802; International Series Rel. No. 179; 812-7601]

Scottish Widows International Fund; Application

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANT: Scottish Widows International Fund.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 12(d)(3) and rule 12d3-1.

SUMMARY OF APPLICATION: Applicant seeks a conditional order permitting it to invest in equity and convertible debt securities of foreign issuers that, in each of their most recent fiscal years, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter or investment adviser ("foreign securities companies") in accordance with the conditions of the proposed amendments to Rule 12d3-1.

FILING DATE: The application was filed on October 5, 1990.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 13, 1990, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC. 450 5th Street, NW., Washington, DC 20549. Applicant, c/o Robert L. Thomas, President, 60 State Street, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Branch Chief, at (202) 272-3023 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch or by contacting the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant is registered under the Act as an open-end, diversified management investment company. Applicant is managed by Boston Security Counsellors, Inc., a Massachusetts corporation. Scottish Widows Investment Management Limited, a Scottish corporation, serves as applicant's sub-adviser.

2. Applicant seeks to diversify its portfolio further by being permitted to invest in foreign issuers that, in their most recent fiscal year, derived more than 15% of their gross revenues from their activities as a broker, dealer, underwriter, or investment adviser

3. Applicant seeks relief from section 12(d)(3) of the Act and Rule 12d3-1 thereunder to invest in securities of foreign securities companies to the extend allowed in the proposed amendments to rule 12d3-1. *See* Investment Company Act Release No. 17096 (Aug. 3, 1989), 54 FR 33027 (Aug. 11, 1989). Proposed amended rule 12d3-1 would, among other things, facilitate the acquisition by applicant of equity securities issued by foreign securities companies. Applicant's proposed acquisitions of securities issued by foreign securities companies will satisfy each of the requirements of proposed amended rule 12d3-1.

Appicant's Legal Conclusions

1. Section 12(d)(3) of the Act prohibits an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, or investment adviser. Rule 12d3-1 under the Act provides an exemption from section 12(d)(3) for investment companies acquiring securities of an issuer that derived more than 15% of its gross revenues in its most recent fiscal year from securities-related activities, provided the acquisitions satisfy certain conditions set forth in the rule. Subparagraph (b)(4) of rule 12d3-1 provides that "any equity security of the issuer * * * (must be) a 'margin security' as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System." Since a "margin security" generally must be one which is traded in the United States markets, securities issued by many foreign securities firms would not meet this test. Accordingly, applicant seeks an exemption from the "margin security" requirements of rule 12d3-1.

2. Proposed amended rule 12d3-1 provides that the "margin security" requirement would be excused if the acquiring company purchases the equity securities of foreign securities companies that meet criteria comparable to those applicable to equity securities of United States securities-related businesses. The criteria as set forth in the proposed amendments, "are based particularly on the policies that under lie the requirements for inclusion on the list of over-the-counter margin stocks." Investment Company Act Release No. 17096 (Aug. 3, 1989) 54 FR 33027 (Aug. 11, 1989).

Applicant's Condition

Applicant agrees to the following condition in connection with the relief requested:

Applicant will comply with the provisions of the propsed amendments to rule 12d3-1 (Investment Company Act Release No. 17096 (Aug. 3, 1989); 54 FR 33027 (Aug. 11, 1989)), and as such amendmnts may be reproposed, adopted, or amended.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 90-24970 Filed 10-22-90; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

Environmental Impact Statement on the Extension of Transit Service to the Fort Point Channel/South Boston Piers Area in Boston, MA

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the Massachusetts Bay Transportation Authority (MBTA) hereby give notice that they intend to prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) on the proposed extension of transit service in Boston, Massachusetts from midtown to the Fort Point Channel/South Boston Piers area. The largely underutilized 300-acre Piers area has been identified as a priority corridor for regional transportation improvements due to significant new development projected in the near term. Proposed transit to serve trips generated by that development would operate between the existing MBTA rapid transit system and the Boston Marine Industrial Park (BMIP). A Draft Environmental Impact Report (DEIR) for this project satisfying the Massachusetts Envionmental Protection Act (MEPA) was released in September, 1989. Based on DEIR analyses, it is proposed that the EIS evaluate three build alternatives for the transit improvements in addition to the No Action alternative.

DATES: Written comments on the scope of alternatives and impacts to be considered should be sent to the MBTA by November 23, 1990. See **ADDRESSES** below.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Beth Mello, Senior Project Manager, UMTA Region 1, 55 Broadway, Cambridge, MA 02142. Telephone: (617) 494-2055.

ADDRESSES: Written comments should be sent to: Mr. Joseph Aiello, Assistant Director of Construction, MBTA, One South Station, room 2300, Boston, MA 02110. Telephone: (617) 722-6122.

SUPPLEMENTARY INFORMATION:

Scoping:

The Commonwealth of Massachusetts Executive Office of Environmental Affairs (EOEA) held two non-Federal scoping meetings for the Fort Point Channel/South Boston Piers transit project on December 10, 1987 at 1:00 p.m. and 7:00 p.m. at the Federal Reserve Bank in downtown Boston. Notice of the meetings was given in the November 12, 1987 *Environmental Monitor*, in the *Boston Globe* and *Boston Herald*, and in five regional newspapers serving the project area: *Sampan*, the *South Boston Tribune*, *The Boston Ledger*, *The Tab*, and the *South End News*. In addition, invitations to the meetings were mailed to 160 persons including private citizens, environmental, neighborhood, and conservation groups, and federal, state, and local agencies. The meetings were scheduled to be convenient for interested parties and were attended by approximately 60 persons, including representatives from over a dozen local, state, and federal agencies and several community groups. Comments on the proposed Scope of Work, alternatives to be assessed, impacts to be analyzed, and evaluation criteria to be used in decision making were requested at these meetings.

Five alternatives identified during the scoping process were analyzed for the State DEIR in terms of their effectiveness, envionmental impacts, financial feasibility, and cost-effectiveness. These alternatives were No Action (incremental increases in current bus routes), Bus/TSM (high frequency surface shuttle bus service operating from South Station, Park Square, and North Station to the Piers area, and utilization of Transportation System Management (TSM) actions), At-Grade Light Rail (light rail vehicles operating in a surface transit reservation between North Station and BMIP), Underground Transitway (either people movers, light rail vehicles, or buses operating in tunnel between Boylston Street Station and the World Trade Center), and Red Line Loop (diversion of the existing Red Line heavy rail system). Based on DEIR analysis, the MBTA selected the Underground Transitway as the most advantageous alternative. Copies of the State DEIR (EOEA Number 6826) are available at the State Transportation Library, 10 Park Plaza, Boston, MA 02116, and at the Executive Office of Environmental Affairs, MEPA Unit, 100 Cambridge Street, Boston, MA 02202.

The Federal EIS will build upon work performed during the State EIR process by further analyzing variations of the Transitway and TSM alternatives. Given the substantial and ongoing public involvement process conducted for this project, no additional public scoping meeting is planned. A meeting to gain input from key Federal agencies will be held on November 8, 1990. For further information please contact Mr. Joseph Aiello at (617) 722-6122.

The MBTA and UMTA invite written comments for a period of 30 days after the publication of this notice (See **DATES** and **ADDRESSES** above). Comments should focus on the appropriateness of proposed alternatives, rather than on individual preference for a particular alternative; endorsement of an alternative should be communicated after the Draft EIS has been completed. Comments on specific social, economic, or environmental impacts to be evaluated and on evaluation criteria are also invited.

If you wish to be placed on the mailing list to receive further information as the project continues, contact Joseph Aiello at the MBTA (see **ADDRESSES** above).

Description of Study Area and Project Need: the study area consists of approximately 300 acres of largely underutilized land separated from down-town Boston by a narrow water channel. Approximately 9 million square feet of developed land, most of which is used for maritime and industrial purposes, is clustered primarily in the eastern and westernmost thirds of the area. The area is roughly defined by Fort Point Channel on the west, Boston Harbor on the north, the Reserved Channel on the east, and Summer Street on the south. Currently, only three local bus routes serve development in the Piers area.

City and State officials expect that more than 13 million square feet of new development as well as the upgrading and conversion of existing development to more intense use will occur in the area in the next fifteen years. This development would generate almost 20,000 peak hour peak direction trips per day, compared to only 7,000 trips today. Based on dramatic development projections and the shift from lesser traffic-generating land uses to others that generate much higher traffic, the transportation agencies for the greater Boston region have identified the Piers area as the priority corridor for regional transportation improvements. Transit is needed to serve projected trips, thereby furthering the environmental, social, and economic objectives of the area. These objectives include maintenance of air quality standards, improved accessibility between downtown Boston

and the Piers area, and support for planned development throughout the study area.

Alternatives: Alternatives proposed for evaluation in the federal EIS represent refinements of those evaluated during the State DEIR process. Based on technical and community processes conducted as part of the state DEIR (and a preceding Feasibility Study), three build alternatives will be analyzed further. These build alternatives in addition to the No Build alternative are described below:

(1) *No build.* Increases in conventional bus service that do not require investment in trasportation fixed facilities.

(2) *Surface Bus-Transportation System Management (TSM).* Low-to-medium cost improvements to the facilities and operations of the MBTA including high frequency shuttle bus service from key downtown transit stations and TSM actions such as proposed HOV lanes.

(3) *Underground Transitway Using Trackless Trolley Technology:* Trackless trolleys would be operated in tunnel between Boylston Street Station and the World Trade Center, portalling at D Street to provide surface operation to the Boston Marine Industrial Park. The proposed underground alignment would follow Avery Street/Hayward Place/Essex Street to South Station, turn north following Atlantic Avenue above the depressed northbound Central Artery, cross under the Fort Point Channel south of the New Northern Avenue bridge, and follow rights-of-way along New Northern Avenue and New Congress Street to the World Trade Center. Surface operation throughout the service area would be provided from a proposed portal at D Street. This alternative includes five proposed stations: (1) At existing Boylston Street Station providing transfers to the Green Line and integration with Washington Street Replacement Transit Service: (2) at Chinatown providing transfer to the Orange Line; (3) at South Station providing transfer to the Red Line and connection to both commuter rail and an air rights bus terminal; (4) at Fan Pier/Pier 4; and at a terminal station located at the World Trade Center. In addition, a shorter section of the alignment between South Station and the Piers area will be evaluated.

(4) *Underground Transitway Using Dual Mode Bus Technology:* This alternative would follow the same alignment described above but would operate dual mode (electric/diesel) buses. These buses would operate in electric mode in tunnel, switching to diesel mode to operate on surface streets without catenary. As above, a shorter alignment between South Station and the Piers area will also be evaluated.

Probable Effects: UMTA and the MBTA will evaluate all significant environmental, social, and economic impacts of the four alternatives analyzed in the EIS. Impacts include changes in the natural environment (air and water quality, rare and endangered species), changes in the social environment (land use and neighborhoods, noice and vibration, aesthetics, parklands, historic/archaeological resources) and changes in transit service and patronage; associated changes in highway congestion and traffic and parking near stations will also be evaluated. Project capital and operating costs will be estimated, cost-effectiveness calculated, and financial implications analyzed. All impacts will be evaluated for each alternative during three periods: (1) The construction perod; (2) the period during which the initial segment is operated; and (3) the long-term period of full-build operation. Mitigation measures for any adverse impacts identified will be explored.

UMTA Procedures: In accordance with the Urban Mass Transportation Act and UMTA policy, the Draft EIS will be prepared in conjunction with an Alternatives Analysis, and the Final EIS in conjunction with Preliminary Engineering. After its publication, the Draft EIS will be available for public and agency review and comment, and a public hearing will be held. On the basis of the draft EIS and the comments received, the MBTA will select a locally preferred alternative and seek approval from UMTA to continue with Preliminary Engineering and preparation of the Final EIS.

Issued on: October 17, 1990.

Richard H. Doyle,

Acting Director, Eastern Area.

[FR Doc. 90-24989 Filed 10-22-90; 8:45 am]

BILLING CODE 4910-57-M

UNITED STATES INSTITUTE OF PEACE

Grant Applications; Procedures and Deadlines

AGENCY: United States Institute of Peace.

ACTION: Notice, call for applications.

SUMMARY: The United States Institute of Peace announces the 1991 cycles of its annual Solicited Grants competition for the Grants Program. This year's topics are: (1) Curriculum Development and Teacher Training in International Peace and Conflict Management; and (2) Peace, Conflict and Governance in Latin America. The Institute encourages applications from nonprofit organizations, official public institutions, and individuals. Detailed information and application materials are available upon request.

DATES: Applications must be postmarked by January 1, 1991 in order to be considered in the current cycle. Announcements of awards will be made on or about May 1, 1991.

ADDRESSES: United States Institute of Peace: 1550 M Street, NW.—suite 700; Washington, DC 20005-1708.

FOR FURTHER INFORMATION CONTACT: Solicited Grant Projects; Hrach Gregorian, telephone (202) 457-1700.

Dated: October 18, 1990.

Bernice Carney,

Director of Administration.

[FR Doc. 90-25020 Filed 10-22-90; 8:45 am]

BILLING CODE 3155-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Wednesday, October 24, 1990, 10:30 a.m., Commission Meeting.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: OPEN TO THE PUBLIC.

MATTERS TO BE CONSIDERED:

1. Final Rules to Require Child-Resistant Packaging for Glue Removers Containing Acetonitrile and Permanent Wave Neutralizers Containing Potassium Bromate or Sodium Bromate

The staff will brief the Commission on the final rules to require child-resistant packaging for glue removers containing acetonitrile and permanent wave neutralizers containing potassium bromate or sodium bromate

2. Safety Standard for Waterbeds: Petition CP 89-4

The staff will brief the Commission on petition CP 89-4 from the Consumer Federation of America, the New York State Attorney General and the American Academy of Pediatrics which requests a mandatory labeling standard for adult-size waterbeds.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207—301-492-6800.

Dated: October 18, 1990.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 90-25143 Filed 10-19-90; 2:17 pm]

BILLING CODE 6355-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

October 18, 1990.

TIME AND DATE: 10:00 a.m., Thursday, October 25, 1990.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Medusa Cement Company*, Docket No. SE 89-109-M. (Issues include whether the judge erred in concluding that Medusa Cement violated 30 CFR § 56.14211(d).)

Any personn intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5620/(202) 708-9300 for TDD Relay 1-800-877-8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 90-25175 Filed 10-19-90; 3:12 pm]

BILLING CODE 6735-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, October 29, 1990.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Federal Reserve Bank and Branch director appointments.
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 19, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-25180 Filed 10-19-90; 3:15 pm]

BILLING CODE 6210-01-M

Corrections

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1700

Agency Organization and Functions, Public Information and Procedures

Correction

In rule document 90-23024 beginning on page 39595 in the issue of Friday, September 28, 1990, make the following correction:

On page 39600, in the first column, in the heading of § 1700.21, "section 205" should read "section 305".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

[DA 90-879]

Average Schedule Disbursements

Correction

In notice document 90-22524 appearing on page 39060 in the issue of Monday, September 24, 1990, make the following corrections:

1. On page 39060, in the first column, in the third line from the bottom, "weather" should read "whether".

2. On the same page, in the second column, in the fourth line from the top, "summaries" should read "summarizes".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

Correction

In notice document 90-24257 appearing on page 41740, in the issue of Monday, October 15, 1990, make the following correction:

On page 41740, in the first column, in the file line at the end of the document, "FR Doc. 90-24256" should read "FR Doc. 90-24257".

BILLING CODE 1505-01-D

federal register

Tuesday
October 23, 1990

Part II

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 44

Federal Acquisition Regulation (FAR); Contractor's Purchasing Systems Reviews (CPSR's); Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 44

Federal Acquisition Regulation (FAR); Contractor's Purchasing Systems Reviews (CPSR's)

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are proposing changes to the FAR concerning contractor's purchasing systems reviews (CPSR's). This revision continues the current trend to streamline the acquisition process, reduce contractor oversight, and to eliminate or reduce regulatory burdens on both the contracting officers and contractors.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before December 24, 1990, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets, NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 90–53 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Klein, Office of Federal Acquisition Policy, Room 4041, GS Building, Washington, DC 20405, (202) 501–3775. Please cite FAR Case 90–53.

SUPPLEMENTARY INFORMATION:

A. Background

The revision to FAR 44.302(b) extends the reasons a special review may be conducted to include a major change or deficiency in the contractor's policy, procedures, or key personnel. FAR 44.304(a) is revised to delete the requirement for Administrative Contracting Officers (ACO's) to make an annual determination on whether to continue purchasing system approval based on formal surveillance, or to request a CPSR or special review as a basis for continuing or withdrawing approval. This proposed revision in no way reduces the Government's responsibility or ability to maintain a sufficient level of surveillance in evaluating the contractor's purchasing system. The proposed revision to 44.304(b) substitutes the words "should include" for the words "shall include" when referring to what needs to be included in an ACO's surveillance plan. This change gives contracting officers more latitude and discretion in the development of their plan, as well as in the approach and scope of their surveillance plans. In addition the last sentence of 44.304(b) has been deleted. It is considered to be unnecessary.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. An Initial Regulatory Flexibility Analysis has therefore not been performed. However, comments from small entities concerning the affected FAR section will also be considered in accordance with section 610 of the Act. Such comments must be submitted separately and cite section 90–610 (FAR Case 90–53) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 44

Government procurement.

Dated: October 15, 1990.

Albert A. Vicchiolla,

Director, Office of Federal Acquisition Policy.

Therefore, it is proposed that 48 CFR Part 44 be amended as set forth below:

PART 44—SUBCONTRACTING POLICIES AND PROCEDURES

1. The authority citation for 48 CFR part 44 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 44.302 is amended by revising paragraph (b) to read as follows:

44.302 Requirements.

* * * * *

(b) A CPSR shall be conducted by the cognizant contract administration agency (see subpart 42.3) at least every 3 years for contractors that continue to meet the requirements of paragraph (a) of this section. This review may be accomplished at one time or on a continuing basis. A more frequent review cycle may be established if warranted, and special reviews may be conducted when information reveals a deficiency or major change in the contractor's purchasing system, policy, procedures or key personnel.

3. Section 44.304 is amended by removing the second sentence in paragraph (a), and by revising paragraph (b) to read as follows:

44.304 Surveillance.

* * * * *

(b) Surveillance shall be accomplished in accordance with a plan developed by the ACO with the assistance of subcontracting, audit, pricing, technical, or other specialists as necessary. The plan should cover pertinent phases of a contractor's purchasing system (preaward, postaward, performance, and contract completion) and pertinent operations that affect the contractor's purchasing and subcontracting. The plan should also provide for reviewing the effectiveness of the contractor's corrective actions taken as a result of previous Government recommendations.

[FR Doc. 90–24942 Filed 10–22–90; 8:45 am]

BILLING CODE 6820–34–M

federal register

Tuesday
October 23, 1990

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

29 CFR Part 570

Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age, or Detrimental to Their Health or Well-Being; Proposed Rule

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

29 CFR Part 570

Subpart E—Occupations Particularly Hazardous for the Employment of Minors Between 16 and 18 Years of Age, or Detrimental to Their Health or Well-Being

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Proposed rule; request for comments.

SUMMARY: This document provides proposed changes to three existing Hazardous Occupations Orders (HOs), issued pursuant to section 3(l) of the Fair Labor Standards Act (hereafter, "FLSA" or "Act"), which prohibit the employment of minors under 18 years of age in occupations declared by the Secretary of Labor to be particularly hazardous for such minors, or detrimental to their health or well-being. The affected HOs are those related to the operation of a motor vehicle (HO 2), the use of power-driven meat processing equipment (HO 10), and the operation of paper-products machines (HO 12).

The proposed changes to the existing rules would: (1) Eliminate exemption procedures (essentially now dormant) contained in HO 2 which have allowed the employment of minors under 18 years of age as school bus drivers; (2) clarify that restaurants, fast food establishments, and other retail establishments are subject to HO 10 prohibiting minors under the age of 18 from using powerdriven meat processing equipment; (3) specifically provide that meat slicers are meat processing equipment within the meaning of the HO 10 prohibitions, and seek comments and data concerning injury rates and types associated with the use of meat slicers in food service establishments; and (4) amend HO 12 to expressly prohibit minors under the age of 18 from using power-driven paper machinery in the processing of waste paper.

DATES: Comments are due on or before November 23, 1990.

ADDRESSES: Submit written comments (preferably in triplicate) to Samuel D. Walker, Acting Administrator, Wage and Hour Division, ESA, U.S. Department of Labor, room S–3502, 200 Constitution Avenue NW., Washington, DC 20210.

Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Samuel D. Walker, Acting Administrator, Wage and Hour Division, U.S. Department of Labor, room S–3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8305. This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Background

Sections 3(l) and 12 of the FLSA authorize the Department of Labor to regulate youth employment to ensure that it does not interfere with the schooling, health, or well-being of minors.

Section 3(l) of the FLSA provides a minimum age of 18 years for any nonagricultural occupations which the Secretary of Labor finds to be particularly hazardous for minors 16 and 17 years of age, or detrimental to their health and well-being. The current 17 non-agricultural HOs are contained in 29 CFR part 570, subpart E.

The proposed revisions to three of the HOs are clarifying modifications that incorporate Departmental regulatory and enforcement policy.

While the Department is proposing modifying changes to these three HOs, a thorough review of all the current HOs—with particular attention to the possible development of generic rather than machine-specific HOs—is continuing, so that the regulations can reflect contemporary rather than historical realities. Part of this process has been accomplished by the Child Labor Advisory Committee, which the Department established in August 1987 to provide advice and technical expertise in the development of possible proposals to change the existing child labor standards. The Committee consists of 21 members, representing employers, education, labor, child guidance professionals, civic groups, child advocacy groups, State officials, and safety groups.

II. Paperwork Reduction Act

The proposed rules contain no reporting or recordkeeping requirements subject to the Paperwork Reduction Act. The general FLSA information collection requirements have been approved by the Office of Management and Budget under the control number 1215–0017.

III. Summary of Rule

HO 2—Occupations of Motor Vehicle Driver and Outside Helper, 29 CFR 570.52

HO 2 contains the finding that employment as a motor vehicle driver or as an outside helper on a motor vehicle is particularly hazardous for minors under the age of 18. The proposed revision to HO 2 would eliminate an exception under which States can request that 16- and 17-year old youths be permitted to drive school buses. This is a modest change because the majority of States already prohibit minors from operating school buses, and, in recent years, the Department has been phasing-out the application of this exemption. Essentially, the proposal would bring the existing regulations into conformance with current practice.

The existing HO includes a provision which permits the Secretary to grant an exemption for 16- and 17-year-old youths to drive school buses on the basis of the Secretary's approval of an application filed by the Governor of the State in which the vehicle is registered.

When public employees first were brought under coverage of the FLSA by the 1966 Amendments, such employees also became subject to FLSA's child labor provisions and regulations. A number of States that, prior to 1966, had been using youths under 18 years of age to drive school buses appealed to the Secretary for permission to continue that practice. After completion of a study and a public hearing, it was determined at that time that school bus driving was not particularly hazardous for 16- and 17-year-old minors who were carefully selected, trained, and supervised.

In 1968, an amendment to HO 2 was adopted allowing State Governors to apply annually to the Secretary of Labor for authorization to employ 16- and 17-year-old youths to drive school buses in their States. Fourteen States initially applied for the exemption to continue their practice of employing minors under age 18 to drive school buses.

In reviewing requests of Governors to use minors under age 18 to drive school buses, the Secretary weighed their compliance with eleven criteria set forth in 29 CFR 570.52 concerning selection, training, and supervision of the minors employed.

By 1986, through actions of State Departments of Education or laws passed by State legislatures, only nine State Governors requested approval to use 16- and 17-year-old youths to drive school buses. In 1987, applications were received from six State Governors for approval to use minors under age 18 to drive school buses during the school year. In the last two years, however, only one State has requested approval, and the exemption only applies to one school district in that State.

Over the years, the concern of the Department of Labor has become heightened by an increasing number of school bus accidents involving 16- and 17-year-old drivers where school children have been killed or seriously injured.

In a 1982 report, entitled "The 16/17 Year Old School Bus Driver," the Office of Driver and Pedestrian Safety of the National Highway Traffic Safety Administration (NHTSA) concluded that 16- and 17-year-old school bus drivers were overrepresented in school bus accidents. The NHTSA study covered a ten-year period (1969–1979) and the twelve states that employed school bus drivers under age 18. The study found that on the average 16 and 17-year old drivers had more accidents per million miles than drivers aged 18 and over. (Sixteen and 17-year-olds accounted for 181 accidents per driver and 22.61 accidents per million miles. Drivers aged 18 and over averaged .093 accidents per driver and 11.60 accidents per million miles.)

In addition, the Fatal Accident Reporting System (FARS) data for 1979 indicated that 16- and 17-year-olds were involved in 8.9% of all fatal school bus accidents, even though they comprised only 2.7% of all school bus drivers in the nation that year.

Following a serious school bus accident in 1985 involving a 17-year-old driver, the National Transportation Safety Board (NTSB) studied the accident rates of 16 and 17-year-old school bus drivers for three school years (1982–83 through 1984–85) for the state in which the accident occurred. The study showed that accident rates for 16- and 17-year-old drivers were significantly higher than those for older school bus drivers. The accident rate per million miles for 16- and 17-year-old drivers was 12.7 for 1982–83, 14.0 for 1983–84, and 13.2 for 1984–85. The accident rate per million miles for 18-year-old and older drivers was 8.1, 10.0, and 9.2, respectively. The NTSB recommended that the three States with the highest accident rates involving 16 and 17-year-olds discontinue the practice of hiring 16- and 17-year-olds to drive school buses.

After a comprehensive study conducted by the Department, the matter was referred to the Advisory Committee for its review and recommendations.

At its meeting in March 1988, the Committee recommended that there be no exemption from HO 2 to allow school bus driving by 16- and 17-year-olds. The Committee reviewed the States' accident and injury data, the report and recommendations of the NTSB, and other data on the factors attributed to the causes of some of the more serious accidents.

The Committee's rationale was that minors who drive school buses are subject to the following hazards: (1) Minors have difficulty maintaining discipline on school buses due to peer pressure; (2) driving a school bus is a serious responsibility; and (3) 16- and 17-year-old drivers lack experience, maturity and have poorer judgment than adults.

The Department reviewed the same data utilized by the Committee and concluded that the occupation of motor vehicle operator is too hazardous for 16- and 17-year-old youths. In comparison to adult drivers, 16- and 17-year-old minors generally have more accidents per million miles and per driver.

Accordingly, the proposed rule would eliminate the procedures for States to obtain an exemption from HO 2 for school bus drivers.

HO 10—Occupations Involving Slaughtering, Meat Packing or Processing, or Rendering, 29 CFR 570.61

HO 10, among other things, prohibits the employment of 16- and 17-year-old minors in certain occupations in or about slaughtering and meat packing establishments and rendering plants, and wholesale, retail or service establishments, including the operation or feeding, setting up, adjusting, repairing, oiling, or cleaning of specific power-driven meat-processing machines.

HO 10 applied in its original form to occupations in the slaughtering and meat packing industries. When the Congress amended the FLSA in 1961 to cover certain retail and service enterprises, the Department amended HO 10 to include such firms. Since then, the Department has consistently applied this HO to restaurants and fast food establishments. Over the past few years, however, there have been several Administrative Law Judge decisions concerning the application of HO 10 to restaurants and fast food establishments holding that the HO did not apply to such establishments. In light of this potential uncertainty concerning the application of HO 10 to the food service industry, the Department requested that the Advisory Committee also review this issue.

After reviewing the regulations, relevant case law, and other pertinent background information, the Committee recommended that HO 10 be modified to clarify that restaurants and fast food establishments are included within the HO's definition of retail and wholesale service establishments. The proposed revision to HO 10 would clarify that restaurants, fast food establishments, as well as all other retail and service establishments are subject to this Order.

Additionally, although not specifically named in the current HO, the Department has consistently interpreted the HO 10 prohibition against the use of power-driven knives as applying to meat slicers. The Committee was asked to review this matter and recommended that the Department codify this interpretation by specifically listing power-driven meat slicers.

The Department is also soliciting comments and data on the safety of meat slicers used in food service establishments. Comments should, for example, address injury rates, types of injuries, types of machines, and circumstances surrounding injury by meat slicers used in food service establishments. Information is also requested on the safety-related design and guarding of such machines currently used in these establishments. Stratification of these data by age is encouraged, although data on the safety of the machines for all employees will also be useful. Information received will be analyzed to determine whether the final HO 10 should specifically include meat slicers, exclude meat slicers, or include meat slicers while further study is undertaken.

HO 12—Occupations Involved in the Operation of Paper-Products Machines, 29 CFR 570.63

HO 12 currently defines "paper products machines" as "power-driven machines used in the remanufacture or conversion of paper or pulp into a finished product" (emphasis added). The proposed revision to HO 12 would clarify that the operation of power-driven paper machines also is prohibited where the equipment is used to convert paper into waste paper.

Since the intent of the Hazardous Orders is to prevent injury, the nature of a product or specific use of a machine should not be a determining factor of the Order. Accordingly, the Advisory Committee also recommended that HO 12 be revised to prohibit the operation of all power-driven paper products machines, regardless of the products being manufactured or processed, or the type of establishment in which they are used. As the regulation is written at present, the term "paper products machine" is defined to include scrap-paper balers and other power-driven machines "used in the remanufacture or conversion of paper or pulp into a finished product." The Department's experience has shown that scrap paper

balers are used in many grocery and other retail stores and operations to compact empty boxes and other forms of waste paper for the purpose of disposing of them. The Department believes that the proposed change would clarify the issue regarding the ultimate disposition of the paper and would provide a proper focus on the intent of the prohibition, which is to prevent injury to the minor based on the potential hazards of operating the equipment.

Accordingly, the proposed rule would clarify that the use of power-drive paper products machines is within the scope of HO 12, irrespective of the ultimate use of the paper product processed or the type of establishment in which such machines are used.

IV. Executive Order 12291

This rule is not classified as a "major rule" under Executive Order 12291 on Federal Regulations, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

V. Regulatory Flexibility Act

The proposed rules, if promulgated, will not have a significant effect on a substantial number of small entities. This conclusion is based on all information presently available to the Department. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. As discussed above, the proposed revisions to these three HOs are narrow, technical, clarifying modifications that incorporate Departmental regulatory and enforcement policy.

This document was prepared under the direction and control of Samuel D. Walker, Acting Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 570

Employment, Investigations, Labor, Law enforcement.

Signed at Washington, DC, on this 17th day of October 1990.

Elizabeth Dole,

Secretary of Labor.

William C. Brooks,

Assistant Secretary for Employment Standards.

Samuel D. Walker,

Acting Administrator, Wage and Hour Division.

For the reasons set out in the preamble, title 29, part 570, subpart E of the Code of Federal Regulations is proposed to be amended as follows.

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

1. The authority citation for part 570 continues to read as follows:

Authority: Secs. 3, 11, 12, 52 Stat. 1060, as amended, 1066, as amended, 1067, as amended; 29 U.S.C. 203, 211, 212.

2. Section 570.52 is proposed to be revised to read as follows:

§ 570.52 Occupations of motor-vehicle driver and outside helper (Order 2).

(a) *Findings and declaration of fact.* Except as provided in paragraph (b) of this section, the occupations of motor-vehicle driver and outside helper on any public road, highway, in or about any mine (including open pit mine or quarry), place where logging or sawmill operations are in progress, or in any excavation of the type identified in § 570.68(a) are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Exemption—Incidental and occasional driving.* The findings and declaration in paragraph (a) of this section shall not apply to the operation of automobiles or trucks not exceeding 6,000 pounds gross vehicle weight if such driving is restricted to daylight hours *Provided* such operation is only occasional and incidental to the minor's employment; that the minor holds a State license valid for the type of driving involved in the job performed and has completed a State approved driver education course; *and provided further,* That the vehicle is equipped with a seat belt or similar restraining device for the driver and for each helper, and the employer has instructed each minor that such belts or other devices must be used. This paragraph shall not be applicable to any occupation of motor-vehicle driver which involves the towing of vehicles.

(c) *Definitions.* For purpose of this section:

(1) The term *motor vehicle* shall mean any automobile, truck, truck-tractor, trailer, semitrailer, motorcycle, or similar vehicle propelled or drawn by mechanical power and designed for use as a means of transportation but shall not include any vehicle operated exclusively on rails.

(2) The term *driver* shall mean any individual who, in the course of employment, drives a motor vehicle at any time.

(3) The term *outside helper* shall mean any individual, other than a driver, whose work includes riding on a motor vehicle outside the cab for the purpose of assisting in transporting or delivering goods.

(4) The term *gross vehicle weight* includes the truck chassis with lubricants, water and a full tank or tanks of fuel, plus the weight of the cab or driver's compartment, body and special chassis and body equipment, and payload.

3. Section 570.61 is proposed to be revised to read as follows:

§ 570.61 Occupations in the operation of power-driven meat-processing machines and occupations involving slaughtering, meat packing or processing, or rendering (Order 10).

(a) *Findings and declaration of fact.* The following occupations in or about slaughtering and meat packing establishments, rendering plants, or wholesale, retail or service establishments are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being:

(1) All occupations on the killing floor, in curing cellars, and in hide cellars, except the work of messengers, runners, handtruckers, and similar occupations which require entering such workrooms or workplaces infrequently and for short periods of time.

(2) All occupations involved in the recovery of lard and oils, except packaging and shipping of such products and the operation of lard-roll machines.

(3) All occupations involved in tankage or rendering of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(4) All occupations involved in the operation or feeding of the following power-driven machines, including setting-up, adjusting, repairing, oiling, or cleaning such machines, regardless of the product being processed by these machines: Meat patty forming machines, meat and bone cutting saws, meat slicers, knives (except bacon-slicing machines), headsplitters, and guillotine cutters; snoutpullers and jaw-pullers:

skinning machines; horizontal rotary washing machines; casing-cleaning machines such as crushing, stripping, and finishing machines; grinding, mixing, chopping, and hashing machines; and presses (except belly-rolling machines).

(5) All boning occupations.

(6) All occupations that involve the pushing or dropping of any suspended carcass, half carcass, or quarter carcass.

(7) All occupations involving handlifting or hand-carrying any carcass or half carcass of beef, pork, or horse, or any quarter carcass of beef or horse.

(b) *Definitions.* As used in this section:

(1) The term *slaughtering and meat packing establishments* means places in or about which cattle, calves, hogs, sheep, lambs, goats, or horses are killed, butchered, or processed. The term also includes establishments which manufacture or process meat products or sausage casings from such animals.

(2) The term *rendering plants* means establishments engaged in the conversion of dead animals, animal offal, animal fats, scrap meats, blood, and bones into stock feeds, tallow, inedible greases, fertilizer ingredients, and similar products.

(3) The term *killing floor* includes a workroom, workplace where cattle, calves, hogs, sheep, lambs, goats, or horses are immobilized, shackled, or killed, and the carcasses are dressed prior to chilling.

(4) The term *curing cellar* includes a workroom or workplace which is primarily devoted to the preservation and flavoring of meat by curing materials. It does not include a workroom or workplace solely where meats are smoked.

(5) The term *hide cellar* includes a workroom or workplace where hides are graded, trimmed, salted, and otherwise cured.

(6) The term *boning occupations* means the removal of bones from meat cuts. It does not include work that involves cutting, scraping, or trimming meat from cuts containing bones.

(7) The term *retail/wholesale or service establishments* includes establishments where meat or meat products are processed or handled, such as butcher shops, grocery stores, restaurants/fast-food establishments, hotels, delicatessens, and meat-locker (freezer-locker) companies, and establishments where any food product is prepared or processed for serving to customers using machines prohibited by section (a) of this Order.

(c) *Exemptions.* This section shall not apply to:

(1) The killing and processing of poultry, rabbits, or small game in areas physically separated from the killing floor.

(2) The employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

4. Section 570.63 is proposed to be revised to read as follows:

§ 570.63 Occupations involved in the operation of paper products machines (Order 12)

(a) *Findings and declaration of fact.* The following occupations are particularly hazardous for the employment of minors between 16 and 18 years of age:

(1) The occupations of operation or assisting to operate any of the following power-driven paper products machines:

(i) Arm-type wire stitcher or stapler, circular or band saw, corner cutter or mitering machine, corrugating and single-or-double-facing machine, envelope die-cutting press, guillotine paper cutter or shear, horizontal bar scorer, laminating or combining machine, sheeting machine, scrap-paper baler, or vertical slotter.

(ii) Platen die-cutting press, platen printing press, or punch press which involves hand feeding of the machine.

(2) The occupations of setting up, adjusting, repairing, oiling, or cleaning these machines including those which do not involve hand feeding.

(b) *Definitions.* (1) The term *operating or assisting to operate* shall mean all work which involves starting or stopping a machine covered by this section, placing or removing materials into or from the machine, or any other work directly involved in operating the machine.

(2) The term *paper products* machine shall mean all power-driven machines used in (i) the remanufacture or conversion of paper or pulp into a finished product; or (ii) the preparation of such materials for disposal. The term applies to such machines whether they are used in establishments that manufacture converted paper or pulp products, or in any other type of manufacturing or non-manufacturing establishment.

(c) *Exemptions.* This section shall not apply to the employment of apprentices or student-learners under the conditions prescribed in § 570.50 (b) and (c).

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Part IV

United States Sentencing Commission

Revisions to the Sentencing Guidelines for United States Courts; Notice

UNITED STATES SENTENCING COMMISSION

Revisions to the Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of final action regarding amendments to sentencing guidelines and policy statements effective November 1, 1990.

SUMMARY: The Sentencing Commission hereby gives public notice of several actions taken pursuant to its authority under section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994 (a) and (u)). The Commission has reviewed amendments submitted to Congress on April 26, 1990, that may result in a lower guideline range and has designated two such amendments for inclusion in policy statement 1B1.10 (Retroactivity of Amended Guideline Range). Also, the Commission has promulgated new policy statements for revocation of probation and supervised release. Finally, the Commission approved several minor editorial, clarifying, and conforming amendments to the Guidelines Manual as set forth below.

DATES: The Commission has specified an effective date of November 1, 1990, for these actions.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director, Telephone: (202) 626–8500.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the U.S. Government. The Commission is empowered by 28 U.S.C. 994(a) to promulgate sentencing guidelines and policy statements for federal sentencing courts. Sections 994 (o) and (p) of title 28, United States Code, further direct the Commission to periodically review and revise guidelines and policy statements previously promulgated, and require that guideline amendments be submitted to Congress for review. Absent action of the Congress to the contrary, guideline amendments become effective following 180 days of Congressional review on the date specified by the Commission (*i.e.*, November 1, 1990). Unlike new guidelines and amendments thereto issued pursuant to 28 U.S.C. 994 (a) and (p), sentencing policy statements, commentary, and amendments thereto promulgated by the Commission are not required to be submitted to Congress for 180 days' review prior to their taking effect.

The policy statements on revocation of probation and supervised release set forth below supplant the existing policy statements in Chapter Seven of the Guidelines Manual. These policy statements, issued pursuant to the specific directive in 28 U.S.C. 994 (a)(3), provide more extensive guidance to courts in imposing an appropriate sanction upon revocation of probation or supervised release. The Commission intends that courts will be guided by these policy statements, promulgated specifically for revocation decisions, rather than by the guidelines applicable to initial sentencing decisions. While the revocation policy statements are not binding upon courts in the same fashion as revocation guidelines would be, the Commission strongly encourages their use and welcomes comments regarding the policy statements prior to the issuance of revocation guidelines at a future date.

In connection with its ongoing review of the Guidelines Manual, the Commission continues to welcome comment on any aspect of the sentencing guidelines, policy statements, and official commentary. Comments should be sent to: The United States Sentencing Commission, 1331 Pennsylvania Avenue, NW., suite 1400, Washington, DC 20004, Attn: Communications Director.

Authority: Section 217(a) of the Comprehensive Crime Control Act of 1984 (28 U.S.C. 994(a)).

William W. Wilkins, Jr.,
Chairman.

Additional Revisions to the Guidelines Manual

(1) Subsection (d) of § 1B1.10 (Retroactivity of Amended Guideline Range (Policy Statement)) is amended by deleting "and 269" and inserting in lieu thereof "269, 329, and 341".

This amendment implements the directive in 28 U.S.C. 994(u) in respect to the guideline amendments effective November 1, 1990.

(2) Chapter Seven is deleted in its entirety as follows:

CHAPTER SEVEN—VIOLATIONS OF PROBATION AND SUPERVISED RELEASE

§ 7A1.1. Reporting of Violations of Probation and Supervised Release (Policy Statement)

(a) The Probation Officer shall promptly report to the court any alleged violation of a condition of probation or supervised release that constitutes new criminal conduct, other than conduct that would constitute a petty offense.

(b) The Probation Officer shall promptly report to the court any other alleged violation of a condition of probation or supervised release, unless the officer determines: (1) that such violation is minor, not part of a continuing pattern of violation, and not indicative of a serious adjustment problem; and (2) that non-reporting will not present an undue risk to the public or be inconsistent with any directive of the court relative to the reporting of violations.

Commentary

This policy statement addresses the reporting of volations of probation and supervised release. It is the Commission's intent that significant violations be promptly reported to the court. At the same time, the Commission realizes that it would neither be practical nor desirable to require such reporting for every minor violation.

§ 7A1.2. Revocation of Probation (Policy Statement)

(a) Upon a finding of a violation of probation involving new criminal conduct, other than criminal conduct constituting a petty offense, the court shall revoke probation.

(b) Upon a finding of a violation of probation involving conduct other than conduct under subsection (a), the court may: (1) Revoke probation; or (2) extend the term of probation and/or modify the conditions of probation.

Commentary

This policy statement expresses a presumption that probation is to be revoked in the case of new criminal conduct other than a petty offense. For lesser violations, the policy statements provide that the court may revoke probation, extend the term of supervision, or modify the conditions of supervision.

§ 7A1.3. Revocation of Supervised Release (Policy Statement)

(a) Upon a finding of a violation of supervised release involving new criminal conduct, other than criminal conduct constituting a petty offense, the court shall revoke supervised release.

(b) Upon a finding of a violation of supervised release involving conduct other than conduct under subsection (a), the court may: (1) revoke supervised release; or (2) extend the term of supervised release and/or modify the conditions of supervised release.

Commentary

This policy statement expresses a presumption that supervised release is to be revoked in the case of new criminal conduct other than a petty offense. For lesser violations, the policy statements provide that the court may revoke supervised release.

extend the term of supervision, or modify the conditions of supervision.

§ 7A1.4. No Credit for Time Under Supervision (Policy Statement)

(a) Upon revocation of probation, no credit shall be given (toward any sentence of imprisonment imposed) for any portion of the term of probation served prior to revocation.

(b) Upon revocation of supervised release, no credit shall be given (toward any term of imprisonment ordered) for time previously served on post-release supervision.

Commentary

This policy statement provides that time served on probation or supervised release is not to be credited in the determination of any term of imprisonment imposed upon revocation."

and the following inserted in lieu thereof:

CHAPTER SEVEN—VIOLATIONS OF PROBATION AND SUPERVISED RELEASE

Part A—Introduction to Chapter Seven

1. Authority

Under 28 U.S.C. 994(a)(3), the Sentencing Commission is required to issue guidelines or policy statements applicable to the revocation of probation and supervised release. At this time, the Commission has chosen to promulgate policy statements only. These policy statements will provide guidance while allowing for the identification of any substantive or procedural issues that require further review. The Commission views these policy statements as evolutionary and will review relevant data and materials concerning revocation determinations under these policy statements. Revocation guidelines will be issued after federal judges, probation officers, practitioners, and others have the opportunity to evaluate and comment on these policy statements.

2. Background

(a) Probation

Prior to the implementation of the federal sentencing guidelines, a court could stay the imposition or execution of sentence and place a defendant on probation. When a court found that a defendant violated a condition of probation, the court could continue probation, with or without extending the term or modifying the conditions, or revoke probation and either impose the term of imprisonment previously stayed, or, where no term or imprisonment had originally been imposed, impose any term of imprisonment that was available at the initial sentencing.

The statutory authority to "suspend" the imposition or execution of sentence in order to impose a term of probation was abolished upon implementation of the sentencing guidelines. Instead, the Sentencing Reform Act recognized probation as a sentence in itself. 18 U.S.C. 3561. Under current law, if the court finds that a defendant violated a condition of probation, the court may continue probation, with or without extending the term or modifying the conditions, or revoke probation and impose any other sentence that initially could have been imposed. 18 U.S.C. 3565. For certain violations, revocation is required by statute.

(b) Supervised Release

Supervised release, a new form of post-imprisonment supervision created by the Sentencing Reform Act, accompanied implementation of the guidelines. A term of supervised release may be imposed by the court as a part of the sentence of imprisonment at the time of initial sentencing. 18 U.S.C. 3583(a). Unlike parole, a term of supervised release does not replace a portion of the sentence of imprisonment, but rather is an order of supervision in addition to any term of imprisonment imposed by the court. Accordingly, supervised release is more analogous to the additional "special parole term" previously authorized for certain drug offenses.

With the exception of intermittent confinement, which is available only for a sentence of probation, the conditions of supervised release authorized by statute are the same as those for a sentence of probation. When the court finds that the defendant violated a condition of supervised release, it may continue the defendant on supervised release, with or without extending the term or modifying the conditions, or revoke supervised release and impose a term of imprisonment. The periods of imprisonment authorized by statute for a violation of the conditions of supervised release generally are more limited, however, than those available for a violation of the conditions of probation. 18 U.S.C. § 3583(e)(3).

3. Resolution of Major Issues

(a) Guidelines Versus Policy Statements

At the outset, the Commission faced a choice between promulgating guidelines or issuing advisory policy statements for the revocation of probation and supervised release. After considered debate and input from judges, probation officers, and prosecuting and defense attorneys, the Commission decided, for a variety of reasons, initially to issue policy statements. Not only was the policy statement option expressly authorized by statute, but this approach provided greater flexibility to both the Commission and the courts. Unlike guidelines, policy statements are not subject to the May 1 statutory deadline for submission to Congress, and the Commission believed that it would benefit from the additional time to consider complex issues relating to revocation guidelines provided by the policy statement option.

Moreover, the Commission anticipates that, because of its greater flexibility, the policy statement option will provide better opportunities for evaluation by the courts and the Commission. This flexibility is important, given that supervised release as a method of post-incarceration supervision and transformation of probation from a suspension of sentence to a sentence in itself represent recent changes in federal sentencing practices. After an adequate period of evaluation, the Commission intends to promulgate revocation guidelines.

(b) Choice Between Theories

The Commission debated two different approaches to sanctioning violations of probation and supervised release.

The first option considered a violation resulting from a defendant's failure to follow the court-imposed conditions of probation or supervised release as a "breach of trust." While the nature of the conduct leading to the revocation would be considered in measuring the extent of the breach of trust, imposition of an appropriate punishment for any new criminal conduct would not be the primary goal of a revocation sentence. Instead, the sentence imposed upon revocation would be intended to sanction the violator for failing to abide by the conditions of the court-ordered supervision, leaving the punishment for any new criminal conduct to the court responsible for imposing the sentence for that offense.

The second option considered by the Commission sought to sanction violators for the particular conduct triggering the revocation as if that conduct were being sentenced as new federal criminal conduct. Under this approach, offense guidelines in Chapters Two and Three of the Guidelines Manual would be applied to any criminal conduct that formed the basis of the violation, after which the criminal history in Chapter Four of the Guidelines Manual would be recalculated to determine the appropriate revocation sentence. This

option would also address a violation not constituting a criminal offense.

After lengthy consideration, the Commission adopted an approach that is consistent with the theory of the first option; i.e., at revocation the court should sanction primarily the defendant's breach of trust, while taking into account, to a limited degree, the seriousness of the underlying violation and the criminal history of the violator.

The Commission adopted this approach for a variety of reasons. First, although the Commission found desirable several aspects of the second option that provided for a detailed revocation guideline system similar to that applied at the initial sentencing, extensive testing proved it to be impractical. In particular, with regard to new criminal conduct that constituted a violation of state or local law, working groups expert in the functioning of federal criminal law noted that it would be difficult in many instances for the court or the parties to obtain the information necessary to apply properly the guidelines to this new conduct. The potential unavailability of information and witnesses necessary for a determination of specific offense characteristics or other guideline adjustments could create questions about the accuracy of factual findings concerning the existence of those factors.

In addition, the Commission rejected the second option because that option was inconsistent with its views that the court with jurisdiction over the criminal conduct leading to revocation is the more appropriate body to impose punishment for that new criminal conduct, and that, as a breach of trust inherent in the conditions of supervision, the sanction for the violation of trust should be in addition, or consecutive, to any sentence for the new conduct. In contrast, the second option would have the revocation court substantially duplicate the santioning role of the court with jurisdiction over a defendant's new criminal conduct and would provide for the punishment imposed upon revocation to run concurrently with, and thus generally be subsumed in, any sentence imposed for that new criminal conduct.

Further, the sanctions available to the courts upon revocation are, in many cases, more significantly restrained by statute. Specifically, the term of imprisonment that may be imposed upon revocation of supervised release is limited by statute to not more than five years for persons convicted of Class A felonies, except for certain title 21 drug offenses; not more than three years for Class B felonies; not more than two years for Class C or D felonies; and not more than one year for Class E felonies. 18 U.S.C. 3583(e)(3).

Given the relatively narrow ranges of incarceration available in many cases, combined with the potential difficulty in obtaining information necessary to determine specific offense characteristics, the Commission felt that it was undesirable at this time to develop guidelines that attempt to distinguish, in detail, the wide variety of behavior that can lead to revocation. Indeed, with the relatively low ceilings set by statute, revocation policy statements that attempted to delineate with great particularity the gradations of conduct leading to revocation would frequently result in a sentence at the statutory maximum penalty.

Accordingly, the Commission determined that revocation policy statements that provided for three broad grades of violations would permit proportionally longer terms for more serious violations and thereby would address adequately concerns about proportionality, without creating the problems inherent in the second option.

4. The Basic Approach

The revocation policy statements categorize violations of probation and supervised release in three broad classifications ranging from serious new felonious criminal conduct to less serious criminal conduct and technical violations. The grade of the violation, together with the violator's criminal history category calculated at the time of the initial sentencing, fix the applicable sentencing range.

The Commission has elected to develop a single set of policy statements for revocation of both probation and supervised release. In reviewing the relevant literature, the Commission determined that the purpose of supervision for probation and supervised release should focus on the integration of the violator into the community, while providing the supervision designed to limit further criminal conduct. Although there was considerable debate as to whether the sanction imposed upon revocation of probation should be different from that imposed upon revocation of supervised release, the Commission has initially concluded that a single set of policy statements is appropriate.

5. A Concluding Note

The Commission views these policy statements for revocation of probation and supervised release as the first step in an evolutionary process. The Commission expects to issue revocation guidelines after judges, probation officers, and practitioners have had an opportunity to apply and comment on the policy statements.

In developing these policy statements, the Commission assembled two outside working groups of experienced probation officers representing every circuit in the nation, officials from the Probation Division of the Administrative Office of the U.S. Courts, the General Counsel's office at the Administrative Office of the U.S. Courts, and the U.S. Parole Commission. In addition, a number of federal judges, members of the Criminal Law and Probation Administration Committee of the Judicial Conference, and representatives from the Department of Justice and federal and community defenders provided considerable input into this effort.

Part B—Probation and Supervised Release Violations

Introductory Commentary

The policy statements in this chapter seek to prescribe penalties only for the violation of the judicial order imposing supervision. Where a defendant is convicted of a criminal charge that also is a basis of the violation, these policy statements do not purport to provide the appropriate sanction for the criminal charge itself. The Commission has concluded that the determination of the appropriate sentence on any new criminal conviction should be a separate determination for the court having jurisdiction over such conviction.

Because these policy statements focus on the violation of the court-ordered supervision, this chapter, to the extent permitted by law, treats violations of the conditions of probation and supervised release as functionally equivalent.

Under 18 U.S.C. 3584, the court, upon consideration of the factors set forth in 18 U.S.C. 3553(a), including applicable guidelines and policy statements issued by the Sentencing Commission, may order a term of imprisonment to be served consecutively or concurrently to an undischarged term of imprisionment. It is the policy of the Commission that the sanction imposed upon revocation is to be served consecutively to any other term of imprisonment imposed for any criminal conduct that is the basis of the revocation.

This chapter is applicable in the case of a defendant under supervision for a felony or Class A misdemeanor. Consistent with § 1B1.9 (Class B or C Misdemeanors and Infractions), this chapter does not apply in the case of a defendant under supervision for a Class B or C misdemeanor or an infraction.

§ 7B1.1. Classification of Violations (Policy Statement)

(a) There are three grades of probation and supervised release violations:

(1) Grade A Violations—conduct constituting (A) a Federal, State, or local offense punishable by a term of imprisonment exceeding one year that (i) is a crime of violence, (ii) is a controlled substance offense, or (iii) involves possession of a firearm or destructive device of a type described in 26 U.S.C. 5845(a); or (B) any other Federal, State, or local offense punishable by a term of imprisonment exceeding twenty years;

(2) Grade B Violations—conduct constituting any other Federal, State, or local offense punishable by a term of imprisonment exceeding one year;

(3) Grace C Violations—conduct constituting (A) a Federal, State, or local offense punishable by a term of imprisonment of one year or less; or (B) a violation of any other condition of supervision.

(b) Where there is more than one violation of the conditions of supervision, or the violation includes conduct that constitutes more than one offense, the grade of the violation is determined by the violation having the most serious grade.

Commentary

Application Notes

1. Under 18 U.S.C. 3563(a)(1) and 3583(d), a mandatory condition of probation and supervised release is that the defendant not commit another Federal, State, or local crime. A violation of this condition may be charged whether or not the defendant has been the subject of a separate Federal, State or local prosecution for such conduct. The grade of violation does not depend upon the conduct that is the subject of criminal charges or of which the defendant is convicted in a criminal proceeding. Rather, the grade of the violation is to be based on the defendant's actual conduct.

2. "Crime of violence" has the same meaning as set forth in § 4B1.2(1), and includes any offense under federal or state law punishable by imprisonment for a term exceeding one year that—

(i) has as an element the use, attempted use, or threatened use of physical force against the person of another; or

(ii) is burglary of a dwelling, arson, or extortion, involves use of explosives, or otherwise involves conduct that presents a serious potential risk of physical injury to another.

A crime of violence includes murder, manslaughter, kidnapping, aggravated assault, forcible sex offenses, robbery, arson, extortion, extortionate extension of credit, and burglary of a dwelling. Other offenses are included where (A) that offense has as an element the use, attempted use, or threatened use of physical force against the person of another, or (B) the conduct set forth in the violation charged involved use of explosives or, by its nature, presented a serious potential risk of physical injury to another. A crime of violence also includes the offenses of aiding and abetting, conspiring, and attempting to commit such offenses.

3. "Controlled substance offense" includes any offense under a federal or state law prohibiting the manufacture, import, export, distribution, or dispensing of a controlled substance (or a counterfeit substance) or the possession of a controlled substance (or a counterfeit substance) with the intent to manufacture, import, export, distribute, or dispense. A controlled substance offense also includes the offenses of aiding and abetting, conspiring, and attempting to commit such offenses.

4. A "firearm or destructive device of a type described in 26 U.S.C. 5845(a)" includes a shotgun, or a weapon made from a shotgun, with a barrel or barrels of less than 18 inches in length; a weapon made from a shotgun or rifle with an overall length of less than 26 inches; a rifle, or a weapon made from a rifle, with a barrel or barrels of less than 16 inches in length; a machine gun; a muffler or silencer for a firearm; a destructive device; and certain large bore weapons.

5. Where the defendant is under supervision in connection with a felony conviction, or has a prior felony conviction, possession of a firearm (other than a firearm of a type described in 26 U.S.C. 5845(a)) will generally constitute a Grade B violation, because 18 U.S.C. 922(g) prohibits a convicted felon from possessing a firearm. The term "generally" is used in the preceding sentence, however, because there are certain limited exceptions to the applicability of 18 U.S.C. 922(g). See, e.g., 18 U.S.C. 925(c).

§ 7B1.2. Reporting of Violations of Probation and Supervised Release (Policy Statement)

(a) The probation officer shall promptly report to the court any alleged Grade A or B violation.

(b) The probation officer shall promptly report to the court any alleged Grade C violation unless the officer determines: (1) That such violation is minor, and not part of a continuing pattern of violations; and (2) that non-reporting will not present an undue risk to an individual or the public or be inconsistent with any directive of the court relative to the reporting of violations.

Commentary

Application Note

1. Under subsection (b), a Grade C violation must be promptly reported to the court unless the probation officer makes an affirmative determination that the alleged violation meets the criteria for non-reporting. For example, an isolated failure to file a monthly report or a minor traffic infraction generally would not require reporting.

§ 7B1.3. Revocation of Probation or Supervised Release (Policy Statement)

(a)(1) Upon a finding of a Grade A or B violation, the court shall revoke probation or supervised release.

(2) Upon a finding of a Grade C violation, the court may (A) revoke probation or supervised release; or (B) extend the term of probation or supervised release and/or modify the conditions of supervision.

(b) In the case of a revocation of probation or supervised release, the applicable range of imprisonment is that set forth in § 7B1.4 (Term of Imprisonment).

(c) In the case of a Grade B or C violation—

(1) Where the minimum term of imprisonment determined under § 7B1.4 (Term of Imprisonment) is at least one month but not more than six months, the minimum term may be satisfied by (1) a sentence of imprisonment; or (2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in § 5C1.1(e) for any portion of the minimum term; and

(2) Where the minimum term of imprisonment determined under § 7B1.4 (Term of Imprisonment) is more than six months but not more than ten months, the minimum term may be satisfied by (1) a sentence of imprisonment; or (2) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in § 5C1.1(e), provided that at least one-half of the minimum term is satisfied by imprisonment.

(3) In the case of a revocation based, at least in part, or on a violation of a condition specifically pertaining to community confinement, intermittent confinement, or home detention, use of the same or a less restrictive sanction is not recommended.

(d) Any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation shall be ordered to be paid or served in addition to the sanction determined under § 7B1.4 (Term of Imprisonment), and any such unserved period of community confinement, home detention, or intermittent confinement may be converted to an equivalent period of imprisonment.

(e) Where the court revokes probation or supervised release and imposes a term of imprisonment, it shall increase the term of imprisonment determined under subsections (b), (c), and (d) above by the amount of time in official detention that will be credited toward service of the term of imprisonment under 18 U.S.C. 3585(b), other than time

in official detention resulting from the federal probation or supervised release violation warrant or proceeding.

(f) Any term of imprisonment imposed upon the revocation of probation or supervised release shall be ordered to be served consecutively to any sentence of imprisonment that the defendant is serving, whether or not the sentence of imprisonment being served resulted from the conduct that is the basis of the revocation of probation or supervised release.

(g)(1) Where probation is revoked and a term of imprisonment is imposed, the provisions of §§ 5D1.1–1.3 shall apply to the imposition of a term of supervised release.

(2) Where supervised release is revoked and the term of imprisonment imposed is less than the maximum term of imprisonment imposable upon revocation, the defendant may, to the extent permitted by law, be ordered to recommence supervised release upon release from imprisonment.

Commentary

Application Notes

1. Revocation of probation or supervised release generally is the appropriate disposition in the case of a Grade C violation by a defendant who, having been continued on supervision after a finding of violation, again violates the conditions of his supervision.

2. The provisions for the revocation, as well as early termination and extension, of a term of supervised release are found in 18 U.S.C. 3583(e). This statute, however, neither expressly authorizes nor precludes a court from ordering that a term of supervised release recommence after revocation. Under § 7B1.3(f)(2), the court may order, to the extent permitted by law, the recommencement of a supervised release term following revocation.

3. Subsection (c) provides for the use of certain alternatives to imprisonment upon revocation. It is to be noted, however, that a court may decide that not every alternative is authorized by statute in every circumstance. For example, in United States v. Behnezhad, No. 89–10529 (9th Cir. July 3, 1990), the Ninth Circuit held that where a term of supervised release was revoked there was no statutory authority to impose a further term of supervised release. Under this decision, in the case of a revocation of a term of supervised release, an alternative that is contingent upon imposition of a further term of supervised release (e.g., a period of imprisonment followed by a period of community confinement or detention as a condition of supervised release) cannot be implemented. The Commission has transmitted to the Congress a proposal for a statutory amendment to address this issue.

4. Subsection (e) is designed to ensure that the revocation penalty is not decreased by credit for time in official detention other than time in official detention resulting from the federal probation or supervised release violation warrant or proceeding. Example: A defendant, who was in pre-trial detention for three months, is placed on probation, and subsequently violates that probation. The court finds the violation to be a Grade C violation, determines that the applicable range of imprisonment is 4–10 months, and determines that revocation of probation and imposition of a term of imprisonment of four months is appropriate. Under subsection (e), a sentence of seven months imprisonment would be required because the Bureau of Prisons, under 18 U.S.C. 3585(b), will allow the defendant three months' credit toward the term of imprisonment imposed upon revocation.

5. Subsection (f) provides that any term of imprisonment imposed upon the revocation of probation or supervised release shall run consecutively to any sentence of imprisonment being served by the defendant. Similarly, it is the Commission's recommendation that any sentence of imprisonment for a criminal offense that is imposed after revocation of probation or supervised release be run consecutively to any term of imprisonment imposed upon revocation.

6. Intermittent confinement is authorized only as a condition of probation during the first year of the term of probation. 18 U.S.C. 3563(b)(11). Intermittent confinement is not authorized as a condition of supervised release. 18 U.S.C. 3583(d).

§ 7B1.4 Term of Imprisonment (Policy Statement)

(a) The range of imprisonment applicable upon revocation is set forth in the following table:

REVOCATION TABLE (MONTHS OF IMPRISONMENT)

[Criminal History Category*]

Grade of violation	I	II	III	IV	V	VI
Grade C	3–9	4–10	5–11	6–12	7–13	8–14
Grade B	4–10	6–12	8–14	12–18	18–24	21–27
Grade A						
(1) Except as provided in subdivision (2) below	12–18	15–21	18–24	24–30	30–37	33–41
(2) Where the defendant was on probation or supervised release as a result of a sentence for A Class A felony	24–30	27–33	30–37	37–46	46–57	51–63

*The criminal history category is the category applicable at the time the defendant originally was sentenced to a term of supervision.

(b) Provided, that—

(1) Where the statutorily authorized maximum term of imprisonment that is imposable upon revocation is less than the minimum of the applicable range, the statutorily authorized maximum term shall be substituted for the applicable range; and

(2) Where the minimum term of imprisonment required by statute, if any, is greater than the maximum of the applicable range, the minimum term of imprisonment required by statute shall be substituted for the applicable range.

(3) In any other case, the sentence upon revocation may be imposed at any point within the applicable range, provided that the sentence—

(A) is not greater than the maximum term of imprisonment authorized by statute; and

(B) is not less than any minimum term of imprisonment required by statute.

Commentary

Application Notes

1. The criminal history category to be used in determining the applicable range of imprisonment in the Revocation Table is the category determined at the time the defendant originally was sentenced to the term of supervision. The criminal history category is not to be recalculated because the ranges set forth in the Revocation Table have been designed to take into account that the defendant violated supervision. In the rare case in which no criminal history category was determined when the defendant originally was sentenced to the term of supervision being revoked, the court shall determine the criminal history category that would have been applicable at the time the defendant originally was sentenced to the term of supervision. (See the criminal history provisions of §§ 4A1.1–4B1.4.)

2. Departure from the applicable range of imprisonment in the Revocation Table may be warranted when the court departed from the applicable range for reasons set forth in § 4A1.3 (Adequacy of Criminal History Category) in originally imposing the sentence that resulted in supervision. Additionally, an upward departure may be warranted when a defendant, subsequent to the federal sentence resulting in supervision, has been sentenced for an offense that is not the basis of the violation proceeding.

3. In the case of a Grade C violation that is associated with a high risk of new felonious

conduct (e.g., a defendant, under supervision for conviction of criminal sexual abuse, violates the condition that he not associate with children by loitering near a schoolyard), an upward departure may be warranted.

4. Where the original sentence was the result of a downward departure (e.g., as a reward for substantial assistance), or a charge reduction that resulted in a sentence below the guideline range applicable to the defendant's underlying conduct, an upward departure may be warranted.

5. Under 18 U.S.C. 3565(a), upon a finding that a defendant violated a condition of probation by being in possession of a controlled substance, the court is required "to revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence." Under 18 U.S.C. 3583(g), upon a finding that a defendant violated a condition of supervised release by being in possession of a controlled substance, the court is required "to terminate supervised release and sentence the defendant to serve in prison not less than one-third of the term of supervised release." The Commission leaves to the court the determination of whether evidence of drug usage established solely by laboratory analysis constitutes "possession of a controlled substance" as set forth in 18 U.S.C. 3565(a) and 3583(g).

6. Under 18 U.S.C. 3565(b), upon a finding that a defendant violated a condition of probation by the actual possession of a firearm, the court is required "to revoke the sentence of probation and impose any other sentence that was available * * * at the time of initial sentencing."

§ 7B1.5. No Credit for Time Under Supervision (Policy Statement)

(a) Upon revocation of probation, no credit shall be given (toward any sentence of imprisonment imposed) for any portion of the term of probation served prior to revocation.

(b) Upon revocation of supervised release, no credit shall be given (toward any term of imprisonment ordered) for time previously served on post-release supervision.

(c) Provided, that in the case of a person serving a period of supervised release on a foreign sentence under the provisions of 18 U.S.C. 4106A, credit shall be given for time on supervision prior to revocation, except that no credit shall be given for any time in escape or absconder status.

Commentary

Application Note

1. Subsection (c) implements 18 U.S.C. 4106A(b)(1)(C), which provides that the combined periods of imprisonment and supervised release in transfer treaty cases shall not exceed the term of imprisonment imposed by the foreign court.

Background: This section provides that time served on probation or supervised release is not to be credited in the determination of any term of imprisonment imposed upon revocation. Other aspects of the defendant's conduct, such as compliance with supervision conditions and adjustment while under supervision, appropriately may be considered by the court in the determination of the sentence to be imposed within the applicable revocation range."

This amendment replaces chapter Seven with a set of more detailed policy statements applicable to violations of probation and supervised release. Under 28 U.S.C. 994(a)(3), the Sentencing Commission is required to issue guidelines or policy statements applicable to the revocation of probation and supervised release. At this time, the Commission has chosen to promulgate policy statements only. These policy statements will provide guidance while allowing for the identification of any substantive or procedural issues that require further review. The Commission views these policy statements as evolutionary and will review relevant data and materials concerning revocation determinations under these policy statements. Revocation guidelines will be issued after federal judges, probation officers, practitioners, and others have the opportunity to evaluate and comment on these policy statements.

(3) The following minor editorial revisions have been made to update the Guidelines Manual to reflect that the guidelines system now constitutes current practice: the terms "current practice," "existing practice," and "present practice," where used to denote sentencing practice prior to guidelines, have been replaced by the term "pre-guidelines practice" and conforming tense changes have been made in § 2B3.1, comment. (backg'd); chapter Two, part C, intro. comment., § 2F1.1, comment. (backg'd); § 2J1.3, comment. (backg'd); § 2K2.1, comment. (backg'd); § 2R1.1, comment. (backg'd); § 2T1.1, comment. (backg'd); § 2T1.2, comment. (backg'd); § 2T1.8, comment. (backg'd); § 6A1.3, comment.; and chapter Six, part B, intro. comment.

(4) The following additional sentence has been inserted for clarity in the Commentary captioned "Statutory Provision[s]" of each chapter Two offense guideline that has additional statutory provision(s) listed in Appendix A (Statutory Index): "For additional statutory provision(s), see Appendix A (Statutory Index)."

(5) The following additional minor clarifying and conforming amendments have been made:

(A) The Commentary to § 3C1.2 captioned "Application Notes" is amended in Note 1 by deleting "(e.g., a fleeing defendant discharged a weapon at a pursuing officer)"; by renumbering Notes 1 and 2 as 2 and 3 respectively; and by inserting the following as Note 1:

"1. Do not apply this enhancement where the offense guideline in chapter Two, or another adjustment in chapter Three, results in an equivalent or greater increase in offense level solely on the basis of the same conduct."

This amendment clarifies the application of this guideline.

(B) The Commentary to § 4B1.4 is amended by inserting the following between "Commentary" and "Background":

Application Note

1. This guideline applies in the case of a defendant subject to an enhanced sentence under 18 U.S.C. § 924(e). Under 18 U.S.C. § 924(e)(1), a defendant is subject to an enhanced sentence if the instant offense of conviction is a violation of 18 U.S.C. § 922(g) and the defendant has at least three prior convictions for a "violent felony" or "serious drug offense," or both, committed on occasions different from one another. The terms "violent felony" and "serious drug offense" are defined in 18 U.S.C. 924(e)(2). It is to be noted that the definitions of "violent felony" and "serious drug offense" in 18 U.S.C. 924(e)(2) are not identical to the definitions of "crime of violence" and "controlled substance offense" used in § 4B1.1 (Career Offender), nor are the time periods for the counting of prior sentences under § 4A1.2 (Definitions and Instructions for Computing Criminal History) applicable to the determination of whether a defendant is subject to an enhanced sentence under 18 U.S.C. 924(e).

It is also to be noted that the procedural steps relative to the imposition of an enhanced sentence under 18 U.S.C. 924(e) are not set forth by statute and may vary to some extent from jurisdiction to jurisdiction."

This amendment provides additional explanatory material as to the operation of this section.

(C) The Commentary to § 2A2.1 captioned "Statutory Provisions," as amended, is further amended by deleting "1952A".

This amendment conforms the statutory provisions to Appendix A (Statutory Index).

(D) The Commentary to § 2B2.1 is amended by inserting between "Commentary" and "Application Notes" the following:

"Statutory Provision: 18 U.S.C. 1153."

This amendment inserts Commentary to list a statutory provision referenced to this guideline in Appendix A (Statutory Index) and conform the format of this guideline to that of the other offense guidelines.

(E) The Commentary to § 2B4.1 captioned "Statutory Provisions" is amended by deleting "§§ 1," and inserting in lieu thereof "§§".

This amendment deletes an incorrect reference.

(F) The Commentary to § 2D3.4 captioned "Statutory Provisions" is amended by deleting "Provision" and inserting in lieu thereof "Provisions", and by deleting "§ 842" and inserting in lieu of thereof "§§ 954, 961".

This amendment conforms the statutory provisions to Appendix A (Statutory Index).

(G) The Commentary to § 2F1.1 captioned "Statutory Provisions" is amended by deleting "290" and inserting in lieu thereof "289".

This amendment deletes a reference to a petty offense that was inadvertently retained when other references to petty offenses were deleted from the Manual.

(H) The Commentary to § 2M6.2 is amended by inserting between "Commentary" and "Background" the following:

"Statutory Provision: 42 U.S.C. 2273".

This amendment inserts Commentary to list a statutory provision referenced to this

guideline in Appendix A (Statutory Index) and conform the format of this guideline to that of the other offense guidelines.

(I) The Commentary to § 2T2.2 captioned "Statutory Provisions" is amended by deleting "5601–5605, 5607, 5608" and inserting in lieu thereof "5601, 5603–5605", and by deleting "5691,".

This amendment conforms the Statutory Provisions to Appendix A (Statutory Index).

(J) The Commentary to § 2X2.1 captioned "Statutory Provisions" is amended by deleting "Provisions" and inserting in lieu thereof "Provision", by deleting "§§ 2,755–757" and inserting in lieu thereof "§ 2".

This amendment conforms the statutory provisions to Appendix A (Statutory Index).

(K) Appendix A (Statutory Index), as amended, is further amended by inserting in the appropriate place by title and section:

"42 U.S.C. 300i–1; 2Q1.4, 2Q1.5"; in the line beginning 18 U.S.C. 496 by inserting ", 2T3.1" immediately following "2F1.1"; in the line beginning 18 U.S.C. 757 by inserting at the end ", 2X3.1"; in the line beginning 18 U.S.C. 842(a) by deleting "(g)" and inserting in lieu thereof "(i)"; and in the line beginning 26 U.S.C. 5871 by deleting "2A2.1, 2A2.2" and inserting in lieu thereof "2K2.1, 2K2.2".

This amendment inserts additional statutory references to conform the Statutory Index to the statutory provisions of the referenced offense guidelines, and corrects a clerical error.

(L) The third paragraph of § 1A4(b), as amended, is further amended in the third sentence by deleting "assault, or arson" and inserting in lieu thereof "or assault".

This amendment deletes an inaccurate reference.

(M) The Commentary to § 1B1.1 captioned "Application Notes" is amended in Note 1 by inserting the following additional subdivision at the end:

"(k) 'Destructive device' means any article described in 18 U.S.C. 921(a)(4) (including an explosive, incendiary, or poison gas—(i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) device similar to any of the devices described in the preceding clauses).".

The Commentary to § 2B1.1 captioned "Application Notes" is amended in Note 1 by deleting "and 'firearm' " and inserting in lieu thereof ", 'firearm,' and 'destructive device' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B1.2 captioned "Application Notes" is amended in Note 1 by deleting "and 'firearm' " and inserting in lieu thereof ", 'firearm,' and 'destructive device' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B2.1 captioned "Application Notes" is amended in Note 1 by inserting " 'destructive device,' " immediately before "and 'dangerous weapon' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B2.2 captioned "Application Notes" is amended in Note 1 by deleting "and 'firearm' " and inserting in lieu thereof ", 'firearm,' 'destructive device,' and 'dangerous weapon' ", and by deleting the last sentence as follows: " 'Destructive device' is defined in the Commentary to § 2K1.4 (Arson: Property Damage by Use of Explosives).".

The Commentary to § 2B3.1 captioned "Application Notes" is amended in Note 1 by inserting " 'destructive device,' " immediately before " 'dangerous weapon,' ".

This amendment inserts the definition of a destructive device, formerly in the Commentary to § 2K1.4, in the Commentary to § 1B1.1, with minor revisions to the examples of the articles prohibited by 18 U.S.C. 921(a)(4) to better reflect the statutory provision. This amendment also conforms the commentary of various offense guidelines to reference the definitions set forth in Application Note 1 of the Commentary to § 1B1.1.

(N) The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the subdivision of the "Drug Equivalency Tables" captioned "Cocaine and Other Schedule I and II Stimulants (and their immediate precursors)" by inserting the following additional entry as the seventh entry: "1 gm of Methamphetamine (Pure) = 50 gm of cocaine/10 gm of heroin".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the subdivision of the "Drug Equivalency Tables" captioned "Cocaine and Other Schedule I and II Stimulants (and their immediate precursors)" in the twelfth (formerly eleventh) entry by deleting "0.418 gm" and inserting in lieu thereof "0.416 gm".

The Commentary to § 2D1.1 captioned "Application Notes" is amended in Note 10 in the subdivision of the "Drug Equivalency Tables" captioned "Schedule IV Substances" by deleting "1 gm of Mephobarbital = 0.125 mg of heroin/0.125 gm of marijuana".

This amendment provides an additional equivalency to reflect the distinction between methamphetamine and purse methamphetamine in the Drug Quantity Table at § 2D1.1(c), corrects an error in the equivalency for Phenylacetone/P_2P, and deletes a duplicate listing for Mephobarbital.

(O) The Commentary to § 2K1.7 captioned "Application Notes", as amended, is further amended in the third sentence of Note 4 by deleting "because, in such cases," and inserting in lieu thereof "required because".

The Commentary to § 2K2.4 captioned "Application Notes", as amended, is further amended in the third sentence of Note 4 by inserting "required" immediately before "because".

This amendment makes editorial revisions to enhance the clarity of this commentary.

(P) The Commentary to § 2L1.1 captioned "Background" is amended in the second sentence by deleting "and did not know the alien was excludable as a subversive" immediately following "profit".

This amendment conforms the Background Commentary of this section to the guideline, as amended.

(Q) The Commentary to § 3C1.1 captioned "Application Notes", as amended, is further amended in Note 2 by deleting "In addition to conduct prohibited by 18 U.S.C. 1501–1516,"; and in Note 3 by inserting the following additional subdivision:

"(i) conduct prohibited by 18 U.S.C. 1501–1516.", and by deleting the period at the end of subdivision (h) and inserting in lieu thereof a semicolon.

This amendment makes an editorial revision to enhance the clarity of this commentary.

(R) The Commentary to § 3D1.2 captioned "Application Notes," as amended, is further amended in example (4) of Note 4 by deleting "this subsection" and inserting in lieu thereof "either this subsection or subsection (d)".

This amendment clarifies that, in this example, the counts are to be grouped together under either subsection (b) or (d).

(S) The Commentary to § 3D1.2 captioned "Application Notes" is amended in Note 6 by deleting the third sentence of the first paragraph as follows:

"The same general type of offense" is to be construed broadly, and would include, for example, larceny, embezzlement, forgery, and fraud."; and by inserting the following additional paragraph as the second paragraph:

"Counts involving offenses to which different offense guidelines apply are grouped together under subsection (d) if the offenses are of the same general type and otherwise meet the criteria for grouping under this subsection. In such cases, the offense guideline that results in the highest offense level is used; see § 3D1.3(b). The 'same general type' of offense is to be construed broadly, and would include, for example, larceny, embezzlement, forgery, and fraud.".

This amendment clarifies the interaction of §§ 3D1.2(d) and 3D1.3(b).

(T) Section 5K2.0, as amended, is further amended in the seventh sentence of the first paragraph by deleting "listed elsewhere in the guidelines (e.g., as an adjustment or specific offense characteristic)" and inserting in lieu thereof "taken into consideration in the guidelines (e.g., as a specific offense characteristic or other adjustment)".

This amendment clarifies this sentence.

[FR Doc. 90–25033 Filed 10–22–90; 8:45 am]

BILLING CODE 2210–40–M

federal register

Tuesday
October 23, 1990

Part V

The President

Federal Register
Vol. 55, No. 205
Tuesday, October 23, 1990

Presidential Documents

Title 3—

The President

Proclamation 6210 of October 19, 1990

National Red Ribbon Week for a Drug-Free America, 1990

By the President of the United States of America

A Proclamation

Illegal drug use costs the United States billions of dollars each year in terms of health care demands and lost economic productivity. Far more disturbing, however, is its daily toll in terms of human lives disrupted and destroyed. Those costs are immeasurable.

Former addicts, families terrified by neighborhood violence, law enforcement officials and emergency medical personnel—all can describe the grave consequences of illicit drug use. Affecting individuals and families of every region, every race, every age, and every walk of life, illicit drug use undermines the very foundation of our society.

Fortunately, however, we have made important strides in the fight against illegal drug use. Tougher law enforcement and escalated interdiction efforts, as well as education, prevention, and treatment programs in both the public and private sectors, have begun to prove effective. In many parts of the United States today cocaine is harder to find, more expensive, and less pure than it was one year ago. The operations of a number of drug cartels have been disrupted. Surveys and other research indicators show that attitudes toward illicit drug use, including casual use, are also changing for the better. More and more Americans are refusing to tolerate in their communities illegal drugs and the insidious profiteers who deal them. More and more Americans agree that there is no safe use of illegal drugs. Most important, perhaps, more and more youngsters in this country are beginning to recognize that experimenting with drugs isn't cool, that drugs can kill.

While we have made welcome the progress in the war on drugs—thanks to the creative and determined efforts of law enforcement personnel, parents, educators, and other concerned individuals—we still have much work to do. The National Institute on Drug Abuse reports that as many as 14.5 million Americans age 12 and over currently use illicit drugs. Seventy percent of all illegal drug users are employed—a percentage that underscores the threat drugs pose to the strength and productivity of American business and industry.

During the past several years, the National Federation of Parents for Drug-Free Youth has encouraged the observance of a "National Red Ribbon Week for a Drug-Free America." Millions of Americans—including members of parents' groups, civic organizations, and business associations across the country—take part in this important public education campaign. The red ribbon signifies our refusal to tolerate the use of illicit drugs and the use of alcohol by underaged youth. By wearing or displaying this bright symbol, we express our personal resolve and collective determination to help eliminate the scourge of drugs.

The Congress, by Senate Joint Resolution 346, has designated the week of October 20 through October 28, 1990, as "National Red Ribbon Week for a Drug-Free America" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 20 through October 28, 1990, as National Red Ribbon Week for a Drug-Free America. I call upon all Americans to observe this week by supporting community drug and alcohol abuse prevention efforts. I also encourage every American to wear a red ribbon during this week as an expression of his or her commitment to a healthy, drug-free lifestyle.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.

George Bush

[FR Doc. 90-25213
Filed 10-22-90; 11:04 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 6211 of October 20, 1990

American Textile Industry Bicentennial Week, 1990

By the President of the United States of America

A Proclamation

In marking the 200th anniversary of the establishment of the American textile industry, we are reminded of the important role this industry has played in the growth and competitiveness of our Nation's economy.

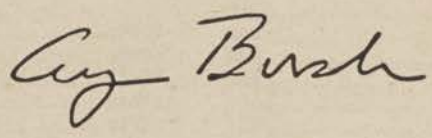
The United States has led all other countries in investment in state-of-the-art machinery for its textile industry, and today it is effectively meeting the challenge of intense foreign competition. Indeed, our commitment to technological improvements has contributed significantly to the strength and productivity of the textile industry. As a result, U.S. textile production continued to grow during the 1980s.

By investing nearly $18 billion in new plants and equipment during the past decade, the textile industry has prepared to meet the new challenges and opportunities of the 1990s—including greater integration of the North American and European markets, economic reforms in Eastern Europe and the Soviet Union, and further progress in the elimination of trade barriers worldwide.

The Congress, by House Joint Resolution 518, has designated the week of October 13 through October 20, 1990, as "American Textile Industry Bicentennial Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim the week of October 13 through 20, 1990, as American Textile Industry Bicentennial Week. I invite the American people to join with me in honoring the more than one million men and women who produce the fiber and fabrics of our Nation.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord nineteen hundred and ninety, and of the Independence of the United States of America the two hundred and fifteenth.



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Tuesday, October 23, 1990

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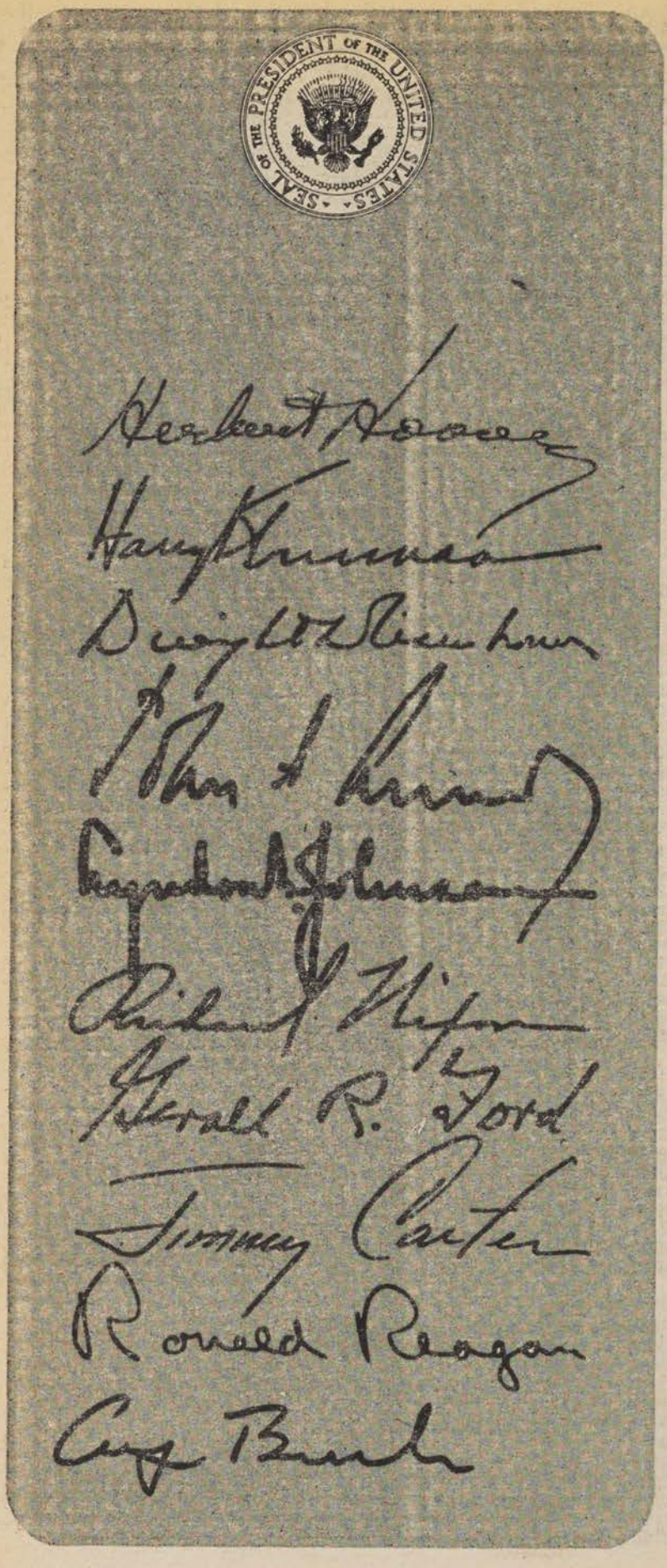
H.R. 2809/Pub. L. 101-436

To provide for the conveyance of certain lands to the State of California, and for other purposes. (Oct. 17, 1990; 104 Stat. 993; 3 pages) Price: $1.00

H.R. 1677/Pub. L. 101-437

Children's Television Act of 1990. (Oct. 18, 1990; 104 Stat. 996; 5 pages) Price: $1.00

Upon expiration of the 10-day period prescribed by the Constitution of the United States, H.R. 1677 became law on Oct. 18, 1990, without the President's signature.



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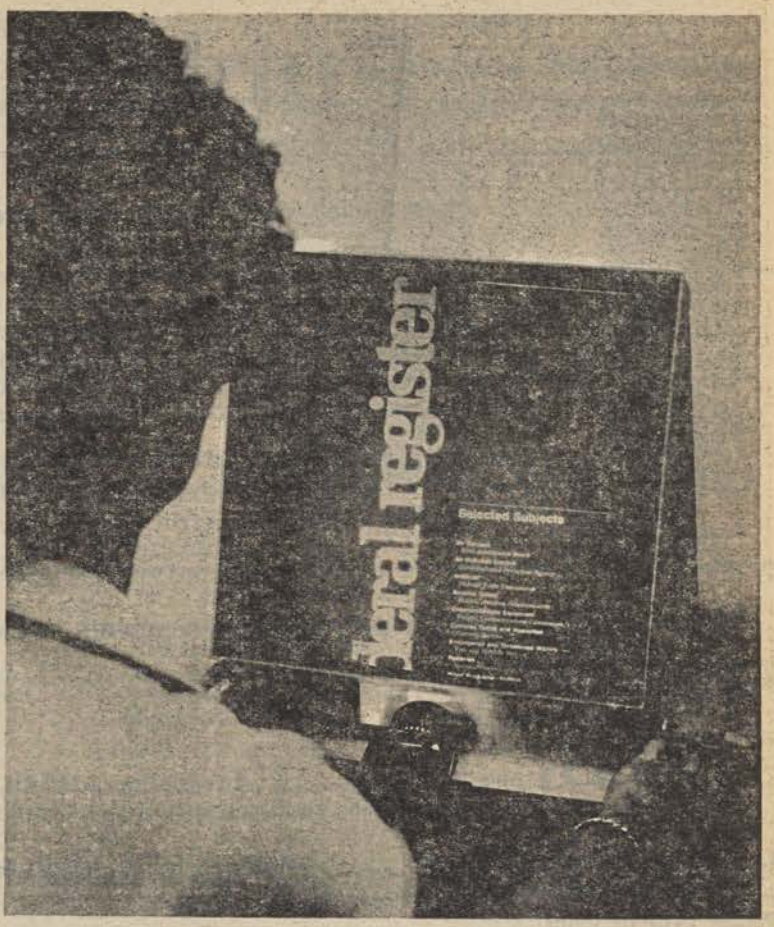

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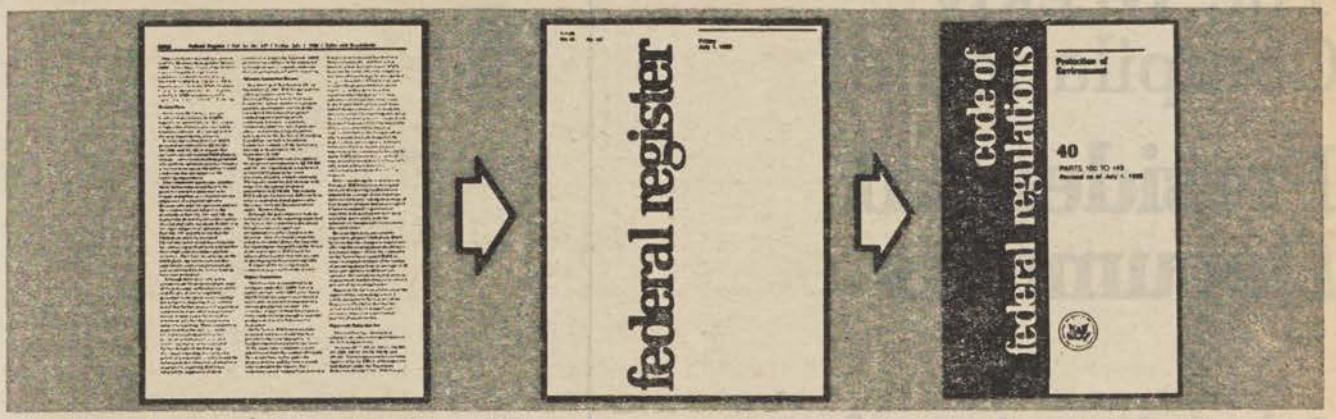

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